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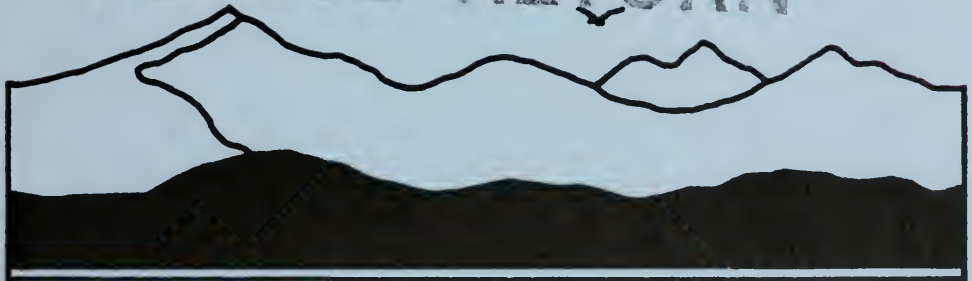

ENVIRONMENTAL PERMITS

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Keep in Mind...

This document summarizes in lay language portions of Montana law that deal with the use and development of state's natural resources. It is not, however, a legal document and should not be relied on exclusively to determine legal responsibilities.

MONTANA ENVIRONMENTAL QUALITY COUNCIL

The Montana Legislature's Environmental Quality Council was established in the early 1970's by the Montana Environmental Policy Act (MEPA). MEPA charged the Council with researching and reviewing state regulations and policies affecting Montana's environment, gathering information on current environmental issues, and recommending measures to "foster and promote the general welfare, to create and maintain conditions under which man and nature can coexist in productive harmony, and fulfill the social, economic and other requirements of present and future generations of Montanans."

As part of its efforts to fulfill these responsibilities, the Environmental Quality Council presents this Index of Environmental Permits. The index should better enable developers and government officials in identifying and insuring compliance with applicable environmental laws and regulations. By facilitating this process, the Environmental Quality Council hopes to encourage sound economic development, which is a vital part of Montana's unique environment.

The Environmental Quality Council Staff members should be considered a primary source of information on the state's environmental laws and programs. Don't hesitate to contact them for help.

Rep. Mike Halligan, Chair
Environmental Quality Council

TABLE OF CONTENTS

INTRODUCTION xiii

LAND DESIGNATIONS 1
- AIRPORT AREAS 1
- CONSERVATION DISTRICTS 2
- FLOODPLAINS AND FLOODWAYS 2
- HERITAGE SITES 4
- ANTIQUITIES PERMITS 4
- LAKESHORES 5
- NATURAL AREAS 6
- OPEN SPACE - CONSERVATION EASEMENTS 7
- STATE LANDS 7
- STREAM BEDS - STREAM BANKS - WETLANDS 8

AGRICULTURE 11
- ANIMAL CONFINEMENT FACILITIES 11
- CROPLAND LEASES 11
- FERTILIZER REGISTRATION 12
- GRAZING 12
- PESTICIDES 14

BUILDING AND CONSTRUCTION 17
- BUILDING CODES AND RESTRICTIONS 17
- PLANNING 17
- ZONING 18

COMMERCIAL - INDUSTRIAL - ENERGY 19
- AIR QUALITY PERMITS: STATE 19
- AIR QUALITY PERMITS: FEDERAL 21
- GEOTHERMAL LEASES 21
- GEOTHERMAL LEASES ON STATE LANDS 22
- HYDROELECTRIC POWER DEVELOPMENT 23
- HYDROELECTRIC POWER DEVELOPMENT ON STATE LANDS 24
- HYDROELECTRIC DEVELOPMENT AT STATE-OWNED DAMS 24
- INDOOR EMISSIONS - OCCUPATIONAL NOISE 25
- RADIATION CONTROL 25
- MAJOR FACILITY SITING 26
- PIPELINES 29
- WATER POLLUTION DISCHARGE PERMITS 29

FOOD PROCESSING AND SERVICE 30
- DAIRIES 30
- SLAUGHTERHOUSES - MEATPACKING PLANTS 30

FORESTRY 31
- TIMBER SALES 31
- BURNING PERMITS 32
- CABIN SITES 33

HAZARD REDUCTION 33
PORTABLE SAWMILLS 33
REMOVAL OF NONCOMMERCIAL OR SMALL QUANTITY TIMBER 34

HIGHWAYS - TRANSPORTATION 35
FERRIES 35
HIGHWAY ADVERTISING 35
HIGHWAY APPROACH PERMITS 36
HIGHWAY ENCROACHMENTS - EASEMENTS 37
ROADSIDE JUNKYARDS 37

HUNTING - FISHING - TRAPPING - WILDLIFE MANAGEMENT 38
FISH AND GAME LICENSES 38
COMMERCIAL SEINING 39
HUNTING, FISHING AND TRAPPING REGULATIONS 39
ICE FISHING SHELTER REGULATIONS 39
SHOOTING PRESERVES 40
USE OF POISON BAITS ON DEPARTMENT LANDS 41
WILD BIRD PERMITS 41
BREEDING GAME BIRDS AND ANIMALS 42
FUR DEALERS 42
IMPORTATION OF FISH, FISH EGGS AND WILDLIFE 42
OUTFITTERS AND GUIDES 43
ROADSIDE ZOOS - POSSESSION OF WILD ANIMALS 44
SNARE TRAPPING 45
PREDATOR CONTROL - AERIAL HUNTING 45

LODGING - CAMPING - RECREATION 47
CAMPGROUNDS - TRAILER COURTS - WORK CAMPS 47
SNOWMOBILES 48

MINING 50
RECORDING OF MINING CLAIMS 50
LANDOWNER NOTIFICATION 50
MINING RIGHT-OF-WAY 50
COAL AND URANIUM MINING: PROSPECTING PERMITS 51
COAL AND URANIUM MINING: MINE SITE LOCATION PERMITS 52
COAL AND URANIUM MINING: OPERATIONS 54
URANIUM - SOLUTION EXTRACTION 56
HARDROCK MINING: EXPLORATION 58
HARDROCK MINING: OPERATIONS 59
OPENCUT MINING 62
OPERATIONS ON STATE LANDS: PROSPECTING 63
OPERATIONS ON STATE LANDS: COAL MINING 64
OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS 65
OPERATIONS ON STATE LANDS: STONE, GRAVEL AND OTHER NON METALLIFEROUS MINERALS 66

OIL AND GAS 68
OIL AND GAS 68
GEOPHYSICAL EXPLORATION 69

OPERATIONS ON STATE LANDS: GEOPHYSICAL EXPLORATION 70
OPERATIONS ON STATE LANDS: OIL AND GAS 70
OPERATIONS ON CITY, COUNTY OR SCHOOL DISTRICT LANDS 72
UNDERGROUND STORAGE OF NATURAL GAS ON STATE LANDS 72

SOLID WASTE - HAZARDOUS WASTE 73
SOLID WASTE DISPOSAL (NON-HAZARDOUS) 73
HAZARDOUS WASTE DISPOSAL 75
RADIOACTIVE WASTE DISPOSAL 77
MOTOR VEHICLE WRECKING FACILITIES 77
ROADSIDE JUNKYARDS 78

SUBDIVISIONS 80
SUBDIVISION AND PLATTING ACT 80
SANITATION IN SUBDIVISIONS 82
SALE OF SUBDIVIDED LAND 83

UTILITIES 86
UTILITY REGULATION 86
PIPELINES - MAINS - UTILITY LINES 86
OVERHEAD LINES 87
HIGHWAY UTILITY EASEMENTS 87
MAJOR FACILITY SITING 88
IMPROVEMENT AND UTILITY DISTRICTS 88

WATER 90
PUBLIC WATER SUPPLY 90
SEWER SYSTEMS 91
WATER POLLUTION: DISCHARGE PERMITS 92
WATER POLLUTION: FEDERAL FACILITIES 94
SURFACE WATER APPROPRIATIONS - DIVERSIONS 94
GROUNDWATER APPROPRIATIONS 97
WATER WELLS 98
DAMS AND RESERVOIRS 100

WEATHER MODIFICATION 102

MONTANA ENVIRONMENTAL POLICY ACT/ENVIRONMENTAL IMPACT STATEMENTS 104

MONTANA ADMINISTRATIVE PROCEDURE ACT 106

APPENDIX 1: MONTANA STATE AGENCIES 107

APPENDIX 2: STATE AGENCY REGIONAL OFFICES 115

APPENDIX 3: LOCAL PERMITTING AUTHORITIES 118

APPENDIX 4: FEDERAL AGENCIES 119

INDEX 121

INTRODUCTION

THE PERMIT INDEX

The Montana Index of Environmental Permits (permit index) was prepared by the Environmental Quality Council to provide a comprehensive list of the permits and licenses needed to conduct activities that might affect Montana's environment. The permit index briefly describes most state environmental permits, lists the permitting agencies and cites the statutes and rules that regulate each permit.

In most cases, the permit index will alert the reader to the need to obtain a permit or license, but more detailed information regarding specific application procedures, evaluation standards, operating requirements, enforcement and other legal considerations should always be obtained from the administering agency before proceeding with a project. Remember, the permit index is not a legal document; it should be used as a starting block, not a substitute for contacting agencies or reading the statutes and rules carefully.

THE STATE AND FEDERAL REGULATORY STRUCTURE

For users unfamiliar with the operation of Montana state government, a brief description of its organization and governance may be helpful. There are 14 principal departments within the executive branch. These agencies administer programs established by statute (contained in the Montana Code Annotated), rule (contained in the Administrative Rules of Montana) and sometimes departmental guidelines. The agencies most commonly involved in the issuance or review of environmental permits include: Department of State Lands, Department of Natural Resources and Conservation, Department of Health and Environmental Sciences, Department of Highways, Department of Fish, Wildlife and Parks and Department of Public Service Regulation.

The legislature develops policy for the use and conservation of Montana's natural resources through the enactment of laws and the establishment of associated programs. The Environmental Quality Council, a legislative agency created in 1971 and composed of legislators, citizen members, and a representative of the Governor, is charged with overseeing the implementation of environmental policies and anticipating and resolving environmental problems.

Montana administers several federal environmental programs under agreement with the U.S. Environmental Protection Agency. These include air and water quality, solid and hazardous waste, and asbestos and pesticide regulation. Montana has also been certified by the U.S. Department of Interior to administer the federal Surface Mining Control and Reclamation Act (SMCRA). In addition, some federal programs are mentioned in the permit index, but the user should check with the appropriate state agency to determine if any associated federal permits are required for an activity.

Local governments such as town councils, county commissioners or local health officials also administer permits; see appendix 3 for a listing.

HOW TO USE THE PERMIT INDEX

The permit index is organized both by activity (e.g. mining, agriculture) and land designation (e.g. floodplain, conservation district). To best utilize

the permit index, the user should look up the proposed activity in the table of contents or the index and read the activity section on the pages referenced. The user should then check the land designation section if the activity is proposed in a specially designated area. Note that the land designation section should be used primarily as a reference to complement information in the activity section. Finally, the user should check the other permits referenced under the activity.

For example, a person researching a proposed coal mine on state land would first locate the coal and uranium mining section in the index, then turn to the referenced page and read the information on the coal mine operating permit. Within the coal and uranium mining section, permits for water discharge, air quality and waste management are all referenced, and the user should read those sections. The user should then check "State Lands" in the land designation section.

As illustrated in the example, the additional permits or licenses required are generally referenced under the activity; however, the user should always check directly with the agencies listed to be aware of any other needed permits. Also keep in mind that any project that may have a significant impact on the environment is subject to review under the provisions of the Montana Environmental Policy Act (p. 104). This act is administered by the primary permitting agency for any specific project.

Several appendices are provided to increase the utility of the directory. Appendix 1 lists state permitting agencies and the activities they regulate. Appendix 2 lists state agency regional offices that may need to be contacted for specific information and permit applications. Appendix 3 lists local permitting authorities and the types of permits with which they are concerned. Appendix 4 lists federal agencies having regulatory responsibilities for activities undertaken in Montana.

GENERAL INFORMATION

The permit index starts the user on the right track, but it does not replace assistance from agency personnel who have the responsibility to help citizens comply with Montana's environmental laws. To avoid pitfalls, contact the permitting agencies as soon as possible and integrate environmental regulations into your planning process early.

For answers to general permit questions, call the Governor's Office (444-3111), the Environmental Quality Council (444-3742), the Department of Commerce (444-3494) or the Citizen's Advocate Office (444-3468, 1-800-332-2272).

DIRECTORY OF PERMITS

LAND DESIGNATIONS

If the development or activity is to be located in one of the following special land designations, check with the appropriate authorities for special land use and activity restrictions.

AIRPORT AREAS

1. **Types of Activities Regulated**

Airport areas are regulated by three main laws (see below). Generally, the following considerations are important when building near an airport: Safety of airport users, character of flying operations, noise levels, terrain, future development and Federal Aviation Administration regulations.

A. Airport Influence Areas
Local governments and airports work together to designate airport influence areas that are within 10,000 feet of the runway. Structure and tree heights are regulated within these areas to ensure public safety and safe flying conditions. Anyone building or altering a structure or growing a tree in an airport influence area must apply to the local government in charge of airports for a permit.

Statute: 67-4-101 *et seq.*, MCA

Contact: Local Government
Zoning Board

B. Airport Hazard Regulation
Within two miles of an airport or landing field, no structure or tree may have a height of more than one-twentieth its distance from the nearest boundary of an airport (one-seventh of the distance if the structure is not in the approach or turning zones). Permit applications should be made with the federal, state, county or municipal government that regulates the airport.

Statute: 67-5-101 *et seq.*, MCA

Contact: Local, state or federal government that has jurisdiction over the airport

C. Airport Zoning Act
Federal, state or local governments having authority over airports may adopt regulations dividing airport hazard areas (areas within two miles of airports) into zones and specifying land uses

permitted within each zone. The governments may, but are not required to, establish permitting systems for these zones above and beyond the hazard regulation permits. A variance may be granted if enforcement of the rules would cause unnecessary hardship, the proposed construction is not contrary to the public interest and the new structure does not present an immediate hazard to safe flying conditions.

Statute: Airport Zoning Act, 67-6-101 *et seq.*, MCA

Contact: Local, state or federal government that has jurisdiction over the airport

Department of Commerce
Community Development Bureau
Community and Technical Assistance Program

CONSERVATION DISTRICTS

1. General

Lands located within a soil and water conservation district may be subject to land use regulations designed to conserve soil and water resources and control erosion. These regulations are adopted with voter approval through a referendum and administered by the conservation district supervisors. Once it is enacted, the district supervisors may compel compliance through a petition to district court. Variances awarded upon demonstration of great practical difficulties or unnecessary hardship are allowed. Check with local district supervisors for specifics. Types of activities regulated may include the following: engineering operations for dams, dikes, ponds, ditches, fences, and other construction; cultivation methods or grazing, including contour cultivating and furrowing, sowing, planting, seeding and forestation; cropping and tillage practices; and other practices to prevent soil erosion.

Statute: 76-15-701 *et seq.*, MCA

Contact: Conservation District Supervisors

FLOODPLAINS AND FLOODWAYS

1. Types of Activities Regulated

Artificial obstructions and nonconforming uses within a designated floodplain or floodway require a permit from the local governing body or from the Department of Natural Resources and Conservation if local authorities have not adopted rules. Local governments may adopt land use regulations, including floodplain management regulations within sheetflood areas, that may restrict development. If local regulations are not adopted, DNRC must

enforce minimum standards adopted by the Board of Natural Resources and Conservation.

Statute: Floodplain and Floodway Management Act, 76-5-101 *et seq.*, MCA

Rule: ARM 36.15.101, *et seq.*

Contact: Local Governing Body

Department of Natural Resources and Conservation
Water Resources Division
Engineering Bureau

2. **Application Requirements**

The application for a permit for obstructions or uses in a designated floodplain or floodway must be submitted to the DNRC or local governing body and must contain maps, plans, profiles and specifications of the obstruction or use of the water course or drainway.

Statute: 76-5-405(1), MCA

3. **Permitting Procedures**

Permits for obstructions or uses in a designated floodplain or floodway must be approved or denied within a reasonable time, usually 60 days.

Statute: 76-5-405(2), MCA

Rule: ARM 36.15.216

4. **Fees**

An application fee of $10 is required for a floodplain or floodway obstruction permit.

Statute: 76-5-405(3), MCA

Rule: ARM 36.15.204

5. **Criteria**

The following criteria must be considered by the DNRC in evaluating a permit application: danger to life and property by water that may be backed up or diverted by the obstruction or use; danger that the obstruction or use may be swept downstream and injure people; the availability of alternate

locations; permanence of the obstruction or use; anticipated development in the area and other factors specified by law.

Statute: 76-5-406, MCA

Rule: 36.15.216

HERITAGE SITES

1. Types of Activities Regulated

State actions or state licensed, assisted, or permitted actions that have the potential to substantially alter heritage properties or paleontological remains on state-owned lands are regulated, as is excavation of heritage properties on state-owned lands.

In consultation with the State Historic Preservation Office, the land management agency is required to determine whether a proposed action, initiated by the agency or by an applicant's request for a license or permit, may impact sites, structures or objects on state-owned lands that qualify or would qualify as heritage properties. If the action will affect such properties, the agency must seek ways to avoid or mitigate substantial alterations of the property whenever feasible. These procedures may require completion of a systematic cultural resources inventory, recordation of a property likely to be harmed, consideration of alternative projects, special protective stipulations, project modifications or denial of the project. Agencies may require applicants for permits or licenses to complete portions of this analysis. The land management agency is responsible for insuring that proper procedures are followed. After consultation with the Preservation Office, the agency is responsible for determining how to proceed with the proposed action.

Statute: Montana Antiquities Act, 22-3-421 through 442, MCA

Rule: Department of State Lands and the Department of Fish, Wildlife and Parks have agency rules; for other agencies check with the agency or the State Historic Preservation Office, Montana Historical Society

Contact: State Historic Preservation Officer
Montana Historical Society

ANTIQUITIES PERMITS

1. Types of Activities Regulated

Individuals or organizations proposing to excavate a heritage property or paleontological remains on state-owned land for scholarly purposes must obtain an "antiquities permit" from the State Historic Preservation Officer. Permits may not be granted unless the Historic Preservation Officer is satisfied that the individuals carrying out the proposed work are qualified to

guarantee proper excavation of those sites and objects that may add substantially to existing knowledge of the state and its antiquities.

Statute: Montana Antiquities Act, 22-3-421 through 442, MCA

Contact: Montana Historic Preservation Officer
Montana Historical Society

2. **Criteria**

The heritage value of any historic or prehistoric site identified is determined by the National Register of Historic Places Criteria for Evaluation.

3. **Additional Information**

Applicants for licenses or permits are encouraged to provide the permitting or licensing agency with specific information on the legal location of the proposed project, previous land use and land condition. The material assists the agency and the State Historic Preservation Office determine whether a cultural resource inventory of the proposed area is needed.

LAKESHORES

1. **Types of Activities Regulated**

If the local government has adopted lakeshore protection regulations, a permit is required for any work that will alter the current or cross-sectional area of a navigable lake or its shore. Such activities include construction of channels or ditches; dredging of the lake bottom to remove muck, silt or weeds; ponding; filling; and constructing breakwaters or wharves and docks.

Statute: 75-7-201 through 217 MCA

Rule: As adopted by local governments

Contact: Local governing body authorized to administer the Subdivision and Platting Act on land adjoining a lake, i.e., a board of county commissioners or the governing authority of any city or town.

Department of Natural Resources and Conservation

2. **Application Requirements**

Specific application requirements are set out in regulations adopted by the local government.

3. **Permitting Procedures**

A. The local government must seek the recommendations of the local planning board.

B. The local government may provide a summary procedure to permit work it finds has a minimal or insignificant impact on a lakeshore.

C. The planning board must report its recommendations to the local government as to whether the proposed work conforms to the criteria for issuance of a permit, and it may require the applicant to submit

additional information prior to making its recommendations.

D. A variance from local regulations may be obtained if an impact statement is prepared and a public hearing held.

E. Unless the applicant for a lakeshore work permit agrees to an extension, the government must grant or deny the permit within 90 days.

Statute: 75-7-207, 211, 212, 213 MCA

4. Fees

An application fee to be submitted to the local government is $10.

Statute: 75-7-210, MCA

5. Criteria

The following are minimum requirements and do not restrict a local government from adopting stricter or additional regulations as may be authorized by other statutes.

The proposed work will not, during construction or its utilization:

A. materially diminish water quality;

B. materially diminish habitat for fish or wildlife;

C. interfere with navigation or other lawful recreation;

D. create a public nuisance; or

E. create a visual impact discordant with natural scenic values as determined by the local government, where such values form the predominant landscape elements.

6. Additional Information

Land owners may petition the Department of Natural Resources and Conservation to adopt regulations for a particular lake until the local government adopts the necessary regulations.

NATURAL AREAS

1. Types of Activities Regulated

A natural area is one affected primarily by natural forces, with evidence of human activity at a minimum, and with outstanding natural features worthy of preservation. State-owned lands which are controlled or acquired by the Board of Land Commissioners may be designated as natural areas. Each area so designated will be managed by a "managing entity" and will be subject to

a master plan setting forth specific land use limitations and controls. Activities allowed in natural areas include grazing, recreation and snowmobiling. If feasible, the state of Montana will hold the water and mineral rights in order to adequately protect the area.

Statute: 76-12-101 *et seq.*, MCA

Rule: ARM 26.5.201 *et seq.*

Contact: Board of Land Commissioners

Department of State Lands
Land Administration Division

OPEN SPACE - CONSERVATION EASEMENTS

1. Types of Activities Regulated

Any public body may acquire title to or interest in real property for the purpose of preserving natural, scientific, educational or aesthetic resources. An interest less than fee simple ownership is obtained by a "conservation easement", whereby the landowner relinquishes to the holder of the easement the right to develop the land or alter its natural character. The terms of the easement may prohibit or limit construction, excavation, surface uses, etc. The existence of a conservation easement should appear on the deed to the property.

Statute: 76-6-101 *et seq.*, MCA

Contact: Local Government
County Clerk and Recorder

Department of Fish, Wildlife and Parks
Field Services Division

STATE LANDS

1. Types of Activities Regulated

Activities on state-owned land generally require permits, leases or easements from the Department of State Lands and approval from the Board of Land Commissioners. (See: HERITAGE SITES, p.4; AGRICULTURE, p.11; FORESTRY, p.31; GEOTHERMAL LEASES, p.21; HYDROELECTRIC POWER DEVELOPMENT ON STATE LANDS, p.24; MINING, p.50; NATURAL AREAS, p.6 and OIL AND GAS, p.68)

In addition, the Departments of Fish, Wildlife and Parks, Natural Resources and Conservation, and other state agencies should be contacted for information regarding rules and procedures on lands owned or administered by those agencies.

2. Easements

The Board of Land Commissioners may grant easements on state lands for school-house sites or grounds, public parks, community buildings, cemeteries or other public uses upon proper application accompanied by accurate and

verified plats. The board also may grant an easement for right-of-way across any portion of state lands for any public highway or street, ditch, reservoir, railroad, private road, telegraph or telephone line, or any other public use (see HIGHWAY ENCROACHMENTS - EASEMENTS). Application for an easement on state lands must be made to the Department of State Lands. Compensation must be the full market value of the use of the land, plus any diminution in value of adjacent state lands.

3. **Exchange of Land**

The Board of Land Commissioners is authorized to exchange state land for private land provided that the private land is of equal or greater value than the state land and approximately equal in area. Prior to the land exchange, a public hearing must be held in the county containing the state land to be exchanged. Objections to the exchange may be made at the hearing.

4. **Sales of Land**

The Board of Land Commissioners is authorized to sell state lands, with the exception of timberlands and those lands containing valuable deposits of coal, oil, oil shale, phosphate, metals, sodium or other valuable minerals. No person or corporation may purchase more than 160 acres (one section) of irrigated state land. All sales of state lands are conducted through public auction held at the county courthouse of the county in which the lands are located.

5. **Leases**

State lands may be leased to any person over 18 years old, heads of families, and to associations, partnerships and corporations. When the department receives an application to lease a tract, it will advertise for bids and accept the highest bid, unless the board determines that the highest bid is not in the best interest of the state. For more details on specific types of leases, see AGRICULTURE, p.11; FORESTRY, p.31; MINING, p.50; GEOTHERMAL LEASES ON STATE LANDS, p.22 and OIL AND GAS, p.68.

Statute: Title 77, Chapters 1-6, MCA

Rule: ARM 26, Chapters 2 and 3

Contact: Department of State Lands

STREAM BEDS - STREAM BANKS - WETLANDS

1. **Types of Activities Regulated**

Any physical alteration of a natural perennial flowing stream, its beds or immediate banks requires approval from either the Soil and Water Conservation District Supervisors (Title 76, Chapter 15, MCA), the Grass Conservation District Supervisors (Title 76, Chapter 16, MCA) or the Board of County Commissioners. In addition, a permit is required from the Army

Corps of Engineers for any dredge and fill activity or other work affecting "navigable waters". This may include dredge or fill activity in wetlands.

Statute: Natural Streambed and Land Preservation Act, 75-7 101 *et seq.*, MCA
Rivers and Harbors Act, 33 USC 401 *et seq.*
Clean Water Act, 816, 33 USCA 1251 *et seq.*

Rule: 33 CFR 209 and 40 Federal Register 31319
ARM 36.2.401, *et seq.*

Contact: Board of County Commissioners

Conservation District Supervisors

Army Corps of Engineers
District Engineer

Department of Fish, Wildlife and Parks

2. **Permitting Procedures**

A. Within five days of receiving a notice of a proposed project, the district supervisors or commissioners must determine whether the proposal represents a project covered by the Natural Streambed and Land Preservation Act. Within the same five days, the supervisors must send a copy of their determination to the Department of Fish, Wildlife and Parks and the applicant. If the supervisors or commissioners determine that the proposal is not a project, the applicant may, upon written notice, proceed with the activity.

B. If the supervisors or commissioners determine that the proposal is a project, the Department of Fish, Wildlife and Parks, within five days, must tell the supervisors or commissioners if it requests an on-site inspection by a team consisting of a district representative, the applicant's representative and a DFWP representative. The supervisors or commissioners must call a team together within 20 days, and the team must make a recommendation within 50 days.

C. The supervisors or commissioners must review the recommendation and make a decision on the proposed project within 60 days.

D. If a member of the team or the applicant disagrees with the supervisors' or commissioners' recommendation, he may request that an arbitration panel hear the dispute and make a final written decision. The arbitration panel must consist of three members chosen by the senior judge of the judicial district in which the dispute takes place.

Statute: 75-7-112 through 116, MCA

3. Criteria

The regulatory purposes are preserving streams in their natural state and keeping soil erosion and sedimentation to a minimum, after giving consideration to the needs of agriculture and other beneficial uses of water.

Statute: 75-7-102, MCA

4. Additional Information

A. Emergencies
No prior notice or approval is necessary for emergency actions taken to safeguard life or property. However, notice must be given to the supervisors or commissioners within 15 days following the emergency action. A team will be called together as described above to evaluate the project.

Statute: 75-7-113, MCA

B. Public Projects
Before engaging in any project that may obstruct or alter a stream, a state or local government agency must first provide a notice to the Department of Fish, Wildlife and Parks, on forms provided by the DFWP, at least 60 days prior to commencement of construction. Within 30 days after receipt of project plans, the DFWP must notify the applicant whether the project will adversely affect fish or wildlife habitat. The DFWP may require modifications to the project. If agreement cannot be reached, an arbitration panel may be appointed by the district court.

Statute: 87-5-501 *et seq.*, MCA

Contact: Department of Fish, Wildlife and Parks
Fisheries Division

AGRICULTURE

ANIMAL CONFINEMENT FACILITIES

1. Types of Activities Regulated

A permit is required from the Department of Health and Environmental Sciences for any animal confinement facility which could discharge livestock waste into state waters following a 20 year, 24-hour rainfall event. (See WATER POLLUTION: DISCHARGE PERMITS, p.92)

Rule: ARM 16.20.901 *et seq.*

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau

CROPLAND LEASES

1. Types of Activities Regulated

The Board of Land Commissioners may lease state lands for general agricultural use. Cropland leases are based on a "crop share rental value" of not less than one-fourth of the annual crop, or the usual "landlord's share", whichever is greater.

Statute: 77-6-501, *et seq.*, MCA

Rule: ARM 26.3.128, *et seq.*

Contact: Department of State Lands
Land Administration Division
Surface Leasing Bureau

2. Leasing Procedures

A. Leases go to the highest bidder, unless the board determines that not to be in the state's best interest.

B. Present leaseholders have a preference right over others seeking to lease the same land. Such present holders may meet the highest bid made by any applicant by exercising their preference right, and may appeal the bid to the board if they consider the bid excessive. Present holders may exercise their preference only if they have actually used the land themselves and have not abused any conditions of their lease.

C. Lease terms are five or 10 years.

FERTILIZER REGISTRATION

1. Types of Activities Regulated

Fertilizers and soil amendments, except unmanipulated animal and vegetable manures, must be registered with the Department of Agriculture before distribution in Montana. An annual license, which expires on December 31 of each year, is required from the DOA to sell or distribute fertilizer.

Statute: 80-10-201, 202, MCA

Rule: ARM 4.12.601 *et seq.*

Contact: Department of Agriculture
Plant Industry Division

2. Application Requirements

The applicant for a fertilizer distribution license must complete forms provided by the DOA. The application must include the brand, grade and guaranteed analysis of the fertilizer, the source of each plant food element, name and address of applicant, a copy or facsimile of the label and promotional material, and replicated data verifying claims for effectiveness.

Statute: 80-1-201, 202, MCA

Rule: ARM 4.12.601, 604

3. Fees

A. The fee for fertilizer registration is $10 per grade for each fertilizer and for each soil amendment, with the exception of specialty fertilizers in packages of 10 pounds or less, which may be registered at a fee of $25 each.

B. The fee for a fertilizer distribution license is $50.

C. Tonnage assessment (inspection) fee is 10 cents per ton for soil amendments, 60 cents per ton for fertilizers and $1 per ton for anhydrous ammonia.

Statute: 80-10-201, 202, 207 MCA

Rule: ARM 4.12.608

GRAZING

1. Grazing Districts

A. Preferences and permits for grazing within a grazing district must be obtained from the district directors.

Statute: 76-16-310, MCA

Contact: Grazing District Directors

B. Any person who wishes to obtain grazing preferences (i.e., the right to obtain a grazing permit from the district) must make an application to the district. Temporary permits may be issued to non-members on an annual basis upon application to the district.

C. Transfer of preferences may not be allowed without the written consent of the owner of the property from which the transfer is to be made. A transfer is not effective until approved by the Department of Natural Resources and Conservation.

D. Prior to the transfer, a public hearing must be held before the board of directors of the district.

Statute: 76-16-401 *et seq.*, MCA

2. **State Leases**

A. The Department of State Lands issues leases, through competitive bidding, for grazing on state lands.

Statute: 77-6-101 *et seq.*, 77-6-201 *et seq.*, MCA

Rule: ARM 26.3.129 *et seq.*, 26.2.401

Contact: Department of State Lands
Land Administration Division
Surface Leasing Bureau

B. Leasing Procedures

1) When the Department of State Lands receives an application to lease state lands for grazing purposes, it must advertise for bids on the tract. The tract must be leased to the highest bidder unless the Board of Land Commissioners determines that the bid is not in the state's best interest. All bidding takes place at the county courthouse of the involved county.

2) A present lease holder has a preferential right to meet the highest bid unless the board determines such bid to be excessive. The preferential right may only be exercised if the present holder actually used the land him or herself as specified by rule.

3) A person bidding for the lease of state lands must deposit with the Department of State Lands a certified check, cashier's check or money order in an amount equal to 20 percent of the annual rental bid for grazing land and an amount equal to $1 per acre for each acre of agricultural land.

4) The rental rate for leasing state grazing lands is based on the appraised animal-unit-month carrying capacity of the land.

3. Federal Leases

The Bureau of Land Management and the Forest Service issue grazing leases for federal land.

Statute: Organic Administration Act
Federal Land Policy and Management Act
Public Rangelands Improvement Act

Rule: 43 CFR 4100, 36 CFR 222(A)

Contact: Bureau of Land Management
District Office

U.S. Forest Service
Forest Supervisor

PESTICIDES

1. Types of Activities Regulated

The manufacturer, formulator or distributor of each pesticide distributed, sold or transported in Montana must register the pesticide annually with the Department of Agriculture. Commercial applicators must be licensed annually by the Department of Agriculture (expiration is December 31 following date of issuance), and farm applicators must obtain special use permits for restricted pesticides. Pesticides dealers also must be licensed annually by the department (expiration is the December 31 following date of issuance). Aerial applicators must be licensed by the Department of Commerce and certify that they have met all Federal Aviation Administration requirements for aerial pesticide applicators.

Statute: Montana Pesticides Act, 80-8-101 *et seq.*, MCA

Rule: ARM Title 4, Chapter 10

Contact: Department of Agriculture
Environmental Management Division

Department of Commerce
Aeronautics Division

2. Application Requirements

A. The applicant for pesticide registration must file a statement with the Department of Agriculture including name and address, a complete copy of the pesticide label, trade and chemical name of the pesticide and if required by the DOA, a description of tests made and the results upon which the claims are based. The state must accept for registration all federally registered products. However, the state may restrict or prohibit the use of a pesticide to prevent harm to individuals, property, plants, trees, animals or fish.

B. The applicant for a pesticide applicator's license must file annually with the Department of Agriculture prior to using a

pesticide each year. The DOA's application and liability forms must be completed. The license is renewed if the applicant has not violated any regulations. An operator's license is required for persons employed by an applicator to apply pesticides. A pesticide applicator's and operator's examination or training also is required of each new applicant. Applicants are required to maintain their qualifications in subsequent licensing years by attending training courses.

C. An applicant for a dealer's license must file annually with the Department of Agriculture. The applicant must pass an examination administered by the DOA. Dealers are also required to maintain their qualifications in subsequent licensing years by attending training courses.

D. Farmers must file for a new special-use permit every five years. Farm applicators qualify for a permit by either passing a graded written examination or attending a training course approved by the DOA and taking an ungraded written examination. They must also maintain their qualifications by periodically attending training courses.

Statute: 80-8-201, 203-209, 211 MCA

Rule: ARM 4.10.201, 203-209; 4.10.401-404 and 4.10.501-504

3. **Permitting Procedures**

A. The Departments of Health and Environmental Sciences, Agriculture, and Fish, Wildlife and Parks must review all applications for registration of an experimental use permit or registration of a pesticide for special local needs. The departments utilize the same requirements and standards for reviewing registrations as established by the Federal Insecticide, Fungicide and Rodenticide Act.

B. The Departments of Health and Environmental Sciences and Fish, Wildlife and Parks must approve or disapprove applications within 10 days after receipt.

C. If two of the three departments are in agreement with the proposed registration, the Department of Agriculture must issue the registration.

Statute: 80-8-201(8), MCA

4. **Fees**

A. The fee for each registered pesticide is $50 annually.

B. The fee for a special local need or experimental use permit registration is an initial one-time fee of $50.

C. The fee for a pesticide applicator's license is $35 annually.

D. The annual fee for a government applicator or dealer's license is $50 each for the first four employees of the government agency, and $5 for each additional employee applicator.

E. The fee for pesticide operators is $10 each for the first two operators and $5 for each additional operator.

F. The application for a dealer's license must be accompanied by a fee of $35.

G. Dealers or applicators applying for renewal of a license must do so on or before March 1 of the calendar year. Any previously licensed dealer or applicator applying for renewal of license after March 1 is assessed a $25 late license fee.

Statute: 80-8-201, 203 through 209 and 213 MCA

5. **Criteria**

A. If it does not appear to the Department of Agriculture that the pesticide warrants proposed claims for it or if the article and its labeling do not comply with the Montana Pesticides Act, the department must notify the applicant to allow him/her an opportunity to make the necessary corrections.

B. If the applicant does not make the corrections, the DOA may refuse to register the pesticide.

C. The DOA decision may be appealed.

Statute: 80-8-201(6), MCA

BUILDING AND CONSTRUCTION

BUILDING CODES AND RESTRICTIONS

1. Types of Activities Regulated

The state-wide building code applies to all construction throughout the state with the exception of residential structures with fewer than five dwelling units, farm and ranch buildings, private garage and storage structures used only by the owner, and mine buildings on mine property regulated under the Metal Mine Reclamation Act. Such structures may be regulated only if municipalities or counties, by adopting local ordinances or resolutions, make the state building code applicable to these residential and farm or ranch structures. If towns or counties adopt local building codes, enforcement is by local rather than state authorities.

2. Application Procedures

A permit must be obtained from appropriate authorities before construction can begin.

Statute: 50-60-101 *et seq.*, MCA

Rule: ARM 8.70.101 *et seq.*

Contact: City or Town Council

Board of County Commissioners

Department of Commerce
Business Regulation Division
Building Codes Bureau

3. Fees

The various required fees for building, mechanical, plumbing, and electrical permits are listed in the Department of Commerce rules concerning building codes.

Rule: ARM 8.70.101 *et seq.*

PLANNING

1. Applicability

The master plan is the primary land use planning tool and document of the city or county. After a public hearing, the planning board recommends the plan to the governing body, which either rejects or accepts it with or without modification. All zoning ordinances and land use decisions must "be guided

by and give consideration to" the master plan. In addition, governing bodies may require subdivision plats to conform to provisions of the master plan.

Statute: Title 76, Chapters 1 and 2, MCA

Contact: Local Government

Local Planning Board

Department of Commerce
Local Government Assistance Division
Community Development Bureau
Community and Technical Assistance Program

ZONING

1. Applicability

Before commencing any development or activity, a person should determine if local zoning regulations exist. Under Montana law, cities, towns and counties may adopt zoning regulations and establish zoning districts for the regulation of height and size of buildings, percentage of lot occupied, size of yards, density of population, location and use of buildings, etc. If zoning exists, a permit for the development or activity may be required.

Statute: Title 76, Chapter 2, MCA (counties)
Title 76, Chapter 3, MCA (municipalities)

Contact: Local Government

Local Zoning Board

Department of Commerce
Local Government Assistance Division
Community Development Bureau
Community Technical Assistance Program

COMMERCIAL - INDUSTRIAL - ENERGY

AIR QUALITY PERMITS: STATE

1. Types of Activities Regulated

A permit from the Department of Health and Environmental Sciences is required for the construction, installation and operation of equipment or facilities that may directly or indirectly cause or contribute to air pollution. Exceptions include residential heating units, food service establishments, ventilating systems, motor vehicles, trains, aircraft, road construction (except stationary sources) and other sources which emit less than specified amounts. The city or county may administer its own air quality permit program in lieu of part or all the DHES's permit program.

Statute: Montana Clean Air Act, 75-2-101 *et seq.*, MCA

Rule: ARM 16.8.1101 *et seq.* and ARM 16.8.921 *et seq.*

Contact: Local Board of Health

Department of Health and Environmental Sciences
Environmental Sciences Division
Air Quality Bureau

2. Application Requirements

Applicants for air quality permits must file the appropriate permit applications with the DHES on forms supplied by the department neither later than 180 days before construction nor later than 120 days before installation of the facility.

Statute: 75-2-211, MCA

Rule: ARM 16.8.1105

3. Permitting Procedures

A. The application for an air quality permit is not considered filed until all filing requirements are completed. However, if the DHES fails to notify the applicant within 30 days that an application is incomplete, the application is considered complete.

B. The applicant must notify the public by means of legal publication in a newspaper of general circulation in the area of the proposed facility. The notice must be made neither sooner than 10 days prior to submittal of the application nor later than 10 days after submittal. The DHES will supply the form of the notice.

C. Within 40 days after receipt of the complete and filed application for a permit, the DHES must make a preliminary determination whether the permit should be issued, issued with conditions or denied.

D. Notwithstanding the opportunity for public comment (15 days), a final decision must be made within 60 days after a completed and filed application is submitted to the DHES.

E. If an application for a permit requires the compilation of an environmental impact statement, the public review procedure for environmental impact statements will apply, and the DHES has 180 days from receipt of the completed application in which to make its final decision (see MONTANA ENVIRONMENTAL POLICY ACT/ENVIRONMENTAL IMPACT STATEMENTS, p.104). If an agency other than the DHES is the lead agency in the preparation of an EIS, the DHES's decision must be made within 30 days after the issuance of the final EIS.

F. If the DHES denies the application for an air quality permit, the applicant may appeal the decision to the Board of Health and Environmental Sciences.

Statute: 75-2-211, MCA

Rule: 16.8.1107-1115

4. **Fees**

The DHES may assess a fee from the applicant to implement and enforce the terms and conditions of the air quality permit.

Statute: 75-2-211(2)(b), MCA

5. **Criteria**

An air quality permit to construct or operate a new or altered air pollution source cannot be issued unless the source is able to comply with the ambient air quality standards, emission limitations and other rules adopted under the Montana Clean Air Act, and the applicable regulations and requirements of the federal Clean Air Act.

Rule: ARM 16.8.1109

6. **Additional Information**

A. Prevention of Significant Deterioration (PSD)

1) When a major new source of air pollution is proposed in an area whose ambient air quality is better than the applicable standards, a more stringent review procedure may apply.

Such review may include one year of preapplication baseline data, control technology review, air pollution impact modeling, and other appropriate measures.

2) The DHES must: (a) advertise in a newspaper of general circulation in the air quality control region affected by the proposed source that an application has been received, the DHES's preliminary determination, the degree of increment consumption expected from the source, how written comments may be submitted and how the DHES's final determination may be appealed to the board; and (b) forward copies of the notice of public comment to the applicant, Region VIII Administrator of the Environmental Protection Agency (EPA) and to area officials and agencies affected by the proposed construction.

Rule: ARM 16.8.921 *et seq.*

B. Variances
A person may apply to the Board of Health and Environmental Sciences for an exemption from applicable rules governing emissions. Such a variance may be issued if the board finds there will be no adverse impact on public health or safety, and that compliance with the rules would be an undue hardship on the applicant. The length of the variance is at the board's discretion and the variance may be renewed. An applicant for a variance must submit a sum of two percent of the cost of equipment needed to bring the facility into compliance with the rule from which the exemption is sought, but not less than $500 nor more than $80,000.

Statute: 75-2-212, MCA

AIR QUALITY PERMITS: FEDERAL

No federal permits are required. The state has responsibility for all air-permit related facilities, including federal facilities.

Contact: Department of Health and Environmental Sciences
Air Quality Bureau

Environmental Protection Agency
Montana Office, Helena

GEOTHERMAL LEASES

Development of geothermal resources will generally require the appropriation of water rights (see GROUNDWATER APPROPRIATIONS, p.98) and may require a certificate of public need and environmental compatibility (see MAJOR FACILITY SITING ACT, p.26). For general information, contact

the Department of Natural Resources and Conservation, Energy Division, Renewable Energy Bureau.

GEOTHERMAL LEASES ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners may lease state-owned lands, including the beds of navigable streams and the beds of navigable bodies of water, for the purposes of prospecting, exploration, well construction or production of geothermal resources.

Statute: 77-4-101 *et seq.*, MCA

Rule: ARM 26.3.401 *et seq.*

Contact: Department of State Lands
Land Administration Division

2. Permitting Procedures

A. A person wishing to lease state lands for geothermal operations must submit an application form supplied by the Department of State Lands containing an adequate description of the land. A water right may also be required. (See SURFACE WATER APPROPRIATIONS, p.94; GROUND WATER APPROPRIATIONS, p.97)

B. Sale of geothermal leases occurs after receipt of a sufficient number of applications to warrant a sale or at the Commissioner's discretion.

C. Notice of sale must be published in a geothermal trade journal or in two newspapers of general circulation in Lewis and Clark County. Notice must be published for four weeks preceding the sale date. Sale may be by competitive bid.

D. A bond in a minimum amount of $2000 is required to protect the state's interest in the resource.

E. The term of a geothermal lease is 10 years. Compensation must be paid to surface lessee, if any, for any damage to the surface or the lease holder's interest.

Rule: ARM 26.3.405

3. Fees

The required fee for a geothermal lease application is $25. Rental and royalty charges are determined by the board but are not less than $1 per acre, not less than 10 percent of the amount or value of steam, heat or energy produced, and not more than 5 percent of any byproduct.

Rule: ARM 26.3.405, 408

HYDROELECTRIC POWER DEVELOPMENT

1. Types of Activities Regulated

Hydroelectric power plants on navigable waters of the United States must be licensed by the Federal Energy Regulatory Commission (FERC). Under current federal administrative and judicial interpretations relative to hydropower licensing, "navigable waters of the United States" includes virtually all waters in Montana and the other 49 states. As a result, FERC is the lead agency in the licensing of new hydropower facilities and in the re-licensing of existing facilities. FERC, acting under the authority of the Federal Power Act and agency rules, processes and evaluates the federal applications required for all hydropower dams, diversions, and other developments; reviews environmental impacts and determines appropriate mitigation; and sets requirements governing the sale of the hydropower generated.

There are five primary subject areas where state regulation of hydroelectric power must be considered in addition to the role of FERC. These areas (and the responsible state agencies) are:

a) Water right permit: contact DNRC (see SURFACE WATER APPROPRIATIONS, p.94)
b) Water quality certification under Section 401 of the Clean Water Act: Contact DHES, Water Quality Bureau
c) Fish and wildlife impact evaluation (no permit required): Contact DFWP regional office.
d) Hydropower projects on state land (see below).
e) Hydropower projects on state-owned dams (see below).

Statute: Federal Power Act, 16, USC 791a *et seq.*

Contact: Federal Energy Regulatory Commission

HYDROELECTRIC POWER DEVELOPMENT ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners may grant leases for construction and operation of hydroelectric power sites on state lands to any person, corporation or municipality.

Statute: 77-4-201 through 211, MCA

Contact: Department of State Lands
Land Administration Division
Surface Leasing Bureau

2. Application Requirements

An application must be presented to the board for lease or license of a power site on state lands. A preliminary examination of the proposed site's value for development is required. If the investigation requires further proceedings, the board must publish a notice regarding the proposed lease or license for six weeks in two state newspapers, one of which must be from the affected area. The board, at its meeting on the proposed site, may consider the original application along with any other filed applications. The board has the power to reject any or all bids. Acceptance depends on which offer is considered to be most advantageous to the state. The Board of Land Commissioners may establish any reasonable restrictions and regulations in the lease or license to protect the state and its people. Bid preferences are given to municipalities. The term of the lease cannot exceed 50 years.

Statute: 77-4-203 through 207, 209, MCA

HYDROELECTRIC DEVELOPMENT AT STATE-OWNED DAMS

1. Types of Activities Regulated

The Board of Natural Resources and Conservation may lease sites at state water projects which it determines to be feasible for energy generation and in the best interest of the people of Montana.

2. Application Procedures

A. The Department of Natural Resources and Conservation must study the economic and environmental feasibility of construction and operating a small-scale hydroelectric power generating facility on each of its dams, and shall periodically update the studies. If the board determines that hydroelectric generation at a state-owned dam is feasible based on the department's study, the board must publish an advertisement soliciting lease applications.

B. Following such publication, individuals, public utilities and electric cooperatives have 180 days to submit applications to the board. Applications must include a statement of the capability of the applicant to achieve the annual production out put estimated by the department, the estimated time to make the project

operations, the bid amount of the royalty and any other information that the board requests.

C. The board will hold a hearing to examine all applications, and must decide whether to accept or reject applications within 180 days after the close of the application period.

D. Any necessary federal licenses or permits must be held by the Department of Natural Resources and Conservation.

E. The duration of the lease may not exceed the term of such federal permits and may in no case exceed 55 years.

F. If no acceptable applications are received, the board may reject all bids and the department may proceed to develop the hydroelectric generation facility.

Statute: Title 85, Chapter 1, MCA

Contact: Department of Natural Resources and Conservation
Water Resources Division

INDOOR EMISSIONS - OCCUPATIONAL NOISE

1. Types of Activities Regulated

The Occupational Health Bureau, DHES, has the authority to regulate occupational exposure to noise and certain hazardous chemicals in work places that are under the jurisdiction of state and local governments. The federal Occupational Safety and Health Administration (OSHA) regulates noise and exposure to certain hazardous chemicals in all privately owned work places. The DHES neither requires nor issues permits for the operation of machinery that may emit pollutants into an enclosed work area.

Statute: 50-70-112, MCA

Rule: ARM 16.42.101: Occupational Noise
ARM 16.42.102: Occupational Air Contamination

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Occupational Health Bureau

Occupational Safety and Health Administration

RADIATION CONTROL

1. Types of Activities Regulated

The U.S. Nuclear Regulatory Commission licenses users of byproduct materials, source materials and special nuclear materials in Montana. A number of record keeping and handling requirements apply. The DHES has statutory authority to license users of naturally occurring and electronically

produced radionuclides but funding is inadequate to operate a licensing program at this time.

Statute: 75-3-201 *et seq.*, MCA

Rule: ARM 16.40.301-324

Contact: Nuclear Regulatory Commission

Department of Health and Environmental Sciences
Environmental Sciences Division
Occupational Health Bureau

MAJOR FACILITY SITING

1. Types of Activities Regulated

Certificates of Public Need and Environmental Compatibility may be required from the Board of Natural Resources and Conservation (BNRC) for major facilities that generate or transmit electricity, produce gas derived from coal or liquid hydrocarbons or transmit these fuels and other substances by pipeline, enrich uranium minerals, utilize or convert coal, or utilize geothermal resources. Associated facilities such as transportation links, aqueducts, diversion dams, transmission substations and other facilities associated with the production or delivery of energy are included. Crude oil and natural gas refineries and facilities subject to the Montana Strip and Underground Mine Reclamation Act are excluded. Federally owned or controlled facilities must satisfy the substantive criteria of the Siting Act. Certification is also required from the Department of Health and Environmental Sciences (DHES) to ensure that the facility will not violate air and water quality standards or other laws administered by the DHES. Special procedures apply for facilities also subject to the jurisdiction of the Federal Energy Regulatory Commission.

Statute: Major Facility Siting Act, 75-20-101 *et seq.*, MCA

Contact: Department of Natural Resources and Conservation
Energy Division

Department of Health and Environmental Sciences
Environmental Sciences Division
Air Quality Bureau
Water Quality Bureau

2. Application Requirements

An applicant for a certificate under the Major Facility Siting Act must file a joint application with DNRC and DHES. Information concerning the need for the facility, the proposed location, alternate sites and baseline data, as well as proof of service of the application on the affected local, state and federal agencies, must be included in the application. Copies must be sent to a number of state agencies, including the Environmental Quality Council and the departments of Health and Environmental Sciences, Highways, Commerce, Revenue, Fish, Wildlife and Parks, State Lands, and Public

Service Regulation. The applicant must submit an original and 19 copies of the application to DNRC.

Statute: 75-20-211, MCA

Rule: ARM 36.7.2101-2107

3. **Permitting Procedures**

A. Time Requirements

1) Each person contemplating construction of a major facility within the next ten years must submit an annual long range plan to DNRC.

2) DNRC and DHES must notify the applicant within 90 days that the application is either complete or incomplete. If the application is incomplete and the applicant corrects it for resubmission, both departments then have 30 days to advise the applicant that the application is complete and accepted.

3) DHES, within one year of the date of acceptance of a complete application, and, if a hearing is required, the board or Department of Health within an additional six months, must issue a decision on certificates, permits, etc., required under the laws administered by the Board of Health and DHES. DHES and the Board determine compliance with all standards, permit requirements and implementation plans under their jurisdiction for the proposed location or any proposed alternate location. Those determinations are conclusive with respect to such requirements.

4) Within 22 months (or 12 months for a linear facility less than 30 miles in length) following acceptance of an application, DNRC must report its findings and recommendations to the Board of Natural Resources and Conservation.

5) Reports from state agencies listed in **Application Requirements** (above) also must report to DNRC on the impact of the proposed facility.

6) Hearings by the BNRC must take place within 120 days of receipt of DNRC's findings, after notification is published in local newspapers. The board must appoint a hearings officer, if any, within 20 days after DNRC's report has been filed. At the request of the applicant, the Board of Health and DHES must hold any required permit hearings in conjunction with the BNRC's certification hearing. If the Board of Health and BNRC hold separate hearings on the same certificate, the boards must mutually agree on the appointment of a hearing examiner to preside at both hearings. A pre-hearing conference, which must be held following notice within 60 days after DNRC's report has been filed with the board, is to be organized and supervised by the hearing examiner. The parties to the hearing are

required to submit all direct testimony, studies, investigations, reports or other exhibits in writing for consideration by the board.

7) The hearing examiner must file a report and recommendations within 60 days after conclusion of the hearing, or in the case of a joint hearing, within 90 days.

8) The BNRC must issue its decision to grant, deny or modify the application within 60 days after submission of the recommended decision by the hearing examiner.

9) The certificate must include the requirement that construction of a generation/conversion facility begin within six years from the date of certification. Linear facilities must be completed within 10 years (five years for transmission lines 30 miles or less in length). Certificates may be reviewed.

10) The board must waive the requirements for alternative site studies and finding of minimum adverse environmental impact when a facility is proposed for construction in a county that has experienced severe unemployment problems because of plant closure.

B. Appeal of Denial

Decisions of the Board of Natural Resources and the board or Department of Health can be appealed to state district court.

Statute: 75-20-216 through 220, 301, 304, 406, 501, MCA

4. Fees

The applicant for a certificate under the Major Facility Siting Act is required to deposit a filing fee based on the estimated cost of the project in an earmarked revenue fund for use by DNRC to administer the act. The DNRC may contract with the applicant for payment of the fee or the applicant shall pay the fee in installments. A fee schedule is listed in the statute.

Statute: 75-20-215, MCA

5. Criteria

The BNRC must issue an opinion and render a decision either granting or denying the application as filed or granting it with conditions or modifications. This decision is based upon a number of factors, including the need for the facility; nature of probable environmental impact considering the state of available technology and the nature and economics of the alternatives; that the facility represents the minimum adverse environmental impact; that the location of the proposed facility conforms to applicable state and local laws; that the facility will serve the public interest, convenience and

necessity; that DHES or the Board of Health have issued all necessary decisions, opinions, orders, certifications and permits; and that the use of public lands for location of the facility is evaluated and public lands are selected whenever their use is as economically practicable as the use of private lands and compatible with environmental criteria listed in 75-20-503.

6. **Additional Information**

The board may not issue a certificate to construct a nuclear facility in Montana unless it meets stringent criteria specified in 75-20-1203, MCA. All nuclear facilities must be subject to a public referendum in order to be approved.

PIPELINES

Pipelines with inside diameters of at least 17 inches that are 30 miles long are regulated by the Major Facility Siting Act. Aspects of other pipeline projects may be covered by statutes listed under Utilities (p.86) and Major Facility Siting (p.26).

WATER POLLUTION DISCHARGE PERMITS

Industrial and commercial operations often require water pollution permits from the Water Quality Bureau of the Department of Health and Environmental Sciences. (See: WATER POLLUTION: DISCHARGE PERMITS, p.92)

FOOD PROCESSING AND SERVICE

DAIRIES

1. Types of Activities Regulated

Licenses for operation of dairies must be obtained from the Department of Livestock. All licenses must be renewed annually by January 31 following date of expiration (December 31). Prior to construction, remodeling or relocation of a dairy, detailed plans must be submitted to the Department of Livestock for review and approval. The Department of Health and Environmental Sciences must approve the means for disposal of wastewater, sewage and air pollutants. Local health agencies may investigate or sample the dairies in their area.

Statute: 81-22-201, 207, 305, 403, MCA

Contact: Department of Livestock
Animal Health Division
Milk and Egg Bureau

2. Fees

The license fees for operation of a dairy range from $5 to $50.

Statute: 81-22-208(la), MCA

SLAUGHTERHOUSES - MEATPACKING PLANTS

1. Types of Activities Regulated

An annual license, which expires on December 31 of the year issued, is required from the Department of Livestock. The Department of Health and Environmental Sciences retains jurisdiction over the proper disposal of sewage and insuring that slaughterhouses and meatpacking plants have approved water supplies.

Statute: 81-9-201, 202, MCA

Contact: Department of Livestock
Animal Health Dvision
Disease Control Bureau

2. Fees

The annual license fee for operating a slaughterhouse or meatpacking plant is $1.

FORESTRY

TIMBER SALES

1. Types of Activities Regulated

Timber sales on state forest lands are administered by the Department of State Lands, and final approval is granted by the Board of Land Commissioners.

2. Application Requirements

A. Timber proposed for sale in excess of 100,000 board feet must be advertised in a newspaper of the county in which the timber is located for a period of at least 30 days, during which time the DSL can receive sealed bids up to the hour of the bid closing, as specified in the notice.

B. In cases of emergency due to fire, pest or blow down a sale of up to 1 million board-feet may be advertised for not less than 10 days.

C. Upon award of sale, the purchaser must execute a formal agreement, approved by the board, which describes the area where the timber is to be cut, the approximate quantity to be cut by species and the rate for each product of each species. The purchaser also is required to furnish a bond to the state in an amount equal to at least 20 percent of the estimated value of timber sold.

Statute: 77-5-201 et seq., MCA

3. Fees

The Board of Land Commissioners establishes fees for brush disposal and timber stand improvement on state lands. Check with the DSL for the fee schedule.

Statute: 77-5-204(4), MCA

4. **Additional Information**

A. Lands classified as timberlands are not subject to sale, but the timber on those lands may be sold. (See STATE LANDS, p.7)

Statute: 77-2-303, MCA

Contact: Department of State Lands
Forestry Division

Board of Land Commissioners

B. A detailed bill of sale is required before more than five coniferous trees may be transported over state highways. Also, transportation of more than 200 pounds of boughs from coniferous trees requires written authorization of the owner of the boughs.

Statute: 76-13-601, MCA

BURNING PERMITS

1. **Types of Activities Regulated**

During the forest fire season (May 1 - September 30, or as extended), permits are required from the recognized protection agency for the area (county, state or Forest Service) to ignite or set a forest fire, slash-burning fire, land-clearing fire, debris-burning fire or an open fire within forest lands. A permit is not required in a designated, improved campground. Air quality permits for major burns (greater than or equal to 100 acres) are required from the Air Quality Bureau of the Department of Health and Environmental Sciences. All open burners (major and minor) must comply with restrictions issued on the Ventilation Hotline (1-800-225-6779) from September to November. Open burning is prohibited from December to February.

Statute: 7-33-2205, 75-2-211 and 76-13-121, MCA

Rule: ARM 26.6.301-304, 501-503

Contact: County Sheriff or Board of Commissioners

Department of State Lands
Land Offices
Unit Offices
Forestry Division Area Manager

U.S. Forest Service
Forest Supervisor

Department of Health and Environmental Sciences
Environmental Sciences Division
Air Quality Bureau

CABIN SITES

1. Types of Activities Regulated

Leases for cabin sites on state forest lands may be obtained from the Department of State Lands, Forestry Division. Department rules govern use and maintenance of such sites.

Rule: ARM 26.6.401

Contact: Department of State Lands
Forestry Division

HAZARD REDUCTION

1. Types of Activities Regulated

Fire hazard reduction agreements and, where applicable, the posting of a bond with the Department of State Lands are required before conducting any timber cutting or timber stand improvements on private lands, or right-of-way clearing on private forest lands. The DSL must be notified at least 10 days prior to any clearing for right-of-way. The DSL will issue a certificate of clearance and return the bond, less an administrative fee, when the agreement for reduction of fire hazard has been executed.

Statute: 76-13-401 through 413, MCA

Rule: ARM 26.6.501-503 and 511

Contact: Department of State Lands
Land Offices
Unit Offices

PORTABLE SAWMILLS

1. Types of Activities Regulated

A license from the Department of State Lands is required for any person or corporation to operate a portable sawmill on private, state or federal forest lands.

Statute: 76-13-501 through 506, MCA

Contact: Department of State Lands
Forestry Division

2. Application Requirements

An applicant for a license to operate a portable sawmill must apply to the DSL in writing, stating name, location of proposed sawmill (section, township, range), capacity of sawmill, estimated amount of stumpage to be cut, and anticipated date of initial operation.

Statute: 76-13-503(l), MCA

3. Fees

The application for a portable sawmill license requires a $2 fee.

Statute: 76-13-503(2), MCA

4. Criteria

If all application information is in order, the Department of State Lands will issue a portable sawmill permit lasting as long as the mill remains in its original setting unless the sawmill violates any state forest-protection laws.

REMOVAL OF NONCOMMERCIAL OR SMALL QUANTITY TIMBER

1. Types of Activities Regulated

Permits for removal of dead or inferior timber from state forests are required from the Department of State Lands or from the Board of County Commissioners on county forests. Permits may be issued free of charge to residents of a county to use dead or inferior timber for fuel and domestic purposes. Permits also may be issued to citizens of Montana for commercial purposes at commercial rates without advertising for timber on state or county forests in quantities of less than 100,000 board feet or, in cases of emergency due to fire, insects or blow down, of less than 200,000 board feet. Farmers, ranchers and prospectors also may obtain permits for timber on state forests in quantities not to exceed 25,000 board feet for domestic purposes in the repair and development of the farm or ranch.

Statute: 7-8-2608, 2609; 77-5-211, 212, 213, MCA

Contact: Board of County Commissioners

Department of State Lands
Forestry Division or Area Supervisor

2. Fees

Fees for domestic-use permits are set by the Board of Land Commissioners. Check with the DSL regarding the required fees.

Statute: 77-5-213, MCA

HIGHWAYS - TRANSPORTATION

FERRIES

1. Types of Activities Regulated

The Board of County Commissioners may lay out, maintain, control and manage county ferries. Ferries between two counties must be approved by the Board of County Commissioners.

Statute: 7-14-2802, MCA

Contact: Board of County Commissioners

2. Application Requirements

Application to operate a ferry between two counties must be made to the Board of County Commissioners of the county situated on the left bank descending the affected river, creek or slough. The application must contain a description of the proposed landings, names of the owners of the landings, and notice that the application has been served at least 10 days prior to the date of application on those landowners not participating in the application. Notice of the proposed ferry must be published by the applicant in a local newspaper and posted in three public places for four consecutive weeks. A hearing is required after notice. The owner of the land on either bank of the waters to be crossed is entitled to preference in procuring authority to construct a ferry, with the owner on the left bank descending having preference over the owner on the right bank.

Statute: 7-14-2821 through 2824, MCA

HIGHWAY ADVERTISING

1. Types of Activities Regulated

A permit is required from the Department of Highways for placing outdoor advertising signs along the right-of-way of interstate and primary highways. Standards for maintenance of permitted advertising are outlined in the statutes and rules.

Statute: Outdoor Advertising Act, 75-15-101 *et seq.*, MCA

Rule: ARM 18.6.201-272

Contact: Department of Highways
Field Offices or District Offices

2. Application Requirements

The applicant for an outdoor advertising permit must complete a form furnished by the DOH. The owner of the land affected must agree to the erection or maintenance of the advertising sign.

Statute: 75-15-122(1), MCA

Rule: ARM 18.6.22

3. Fees

The initial fee is $6. Permits are issued for three years and renewed every three years on payment of $3.

Statute: 75-15-122(1)(2), MCA

Rule: 18.6.214

HIGHWAY APPROACH PERMITS

1. Types of Activities Regulated

Permits are required from the Department of Highways for the construction of driveways and other approaches intersecting public streets and highways.

Rule: ARM 18.5.104 *et seq.*

Contact: Department of Highways
Area Maintenance Bureau

2. Application Requirements

Application for an approach permit must be made by the owner or contract purchaser. These permits are only for the purpose of securing or changing access to property. A brief description of the proposed work, location and a plot plan must be included in the permit application. No more than two approaches will be approved for any single property tract or business establishment. Exceptions may be made where the frontage exceeds 500 feet or special conditions exist that may benefit the traveling public.

Rule: ARM 18.5.104, 105

3. Permitting Procedures

A. A request for a permit to construct or reconstruct any residential, commercial, industrial, public street or road approach should be made to the Chief of the Field Maintenance Bureau of the DOH having jurisdiction over the area.

B. Upon receipt of the request, the Chief of the Field Maintenance Bureau will arrange for a meeting with the applicant in order to discuss the proposed approach.

C. Field Maintenance Bureau personnel and the Division Traffic Engineer have authority to approve curb cuts and public and private approaches.

Rule: ARM 18.5.104

HIGHWAY ENCROACHMENTS - EASEMENTS

1. Types of Activities Regulated

Permits are issued by the Department of Highways for construction or maintenance of encroachments on or under highway rights-of way. (Encroachments include all private structures, devices and facilities placed upon, over or under the right-of-way. These include ditches, dikes, flumes, canals or bridges and water, sewer, electric, natural gas and communications lines.) Written permission is required from the Board of County Commissioners for any excavation or construction across county highways. Permission for easements and encroachments on or across state highway rights-of-way may be obtained from the Department of Highways. (See STATE LANDS: Easements, p.7)

Statute: 7-14-2139, MCA

Rule: ARM 18.7.101-108

Contact: Board of County Commissioners

Department of Highways
Engineering Division
Right-of-Way Bureau

See also HIGHWAY UTILITY EASEMENTS, p.87

ROADSIDE JUNKYARDS

See: MOTOR VEHICLE WRECKING FACILITIES, SOLID WASTE DISPOSAL, p.77

HUNTING - FISHING - TRAPPING - WILDLIFE MANAGEMENT

The Department of Fish, Wildlife and Parks is charged with the regulation of fishing, hunting, trapping and wildlife management, and issues all hunting, trapping and fishing permits and licenses, with the exception of aerial hunting permits (see below). The Fish and Game Commission establishes hunting and fishing seasons and restricts hunting, trapping and fishing in certain areas.

FISH AND GAME LICENSES

1. Types of Activities Regulated

All persons wishing to pursue, hunt, trap, take, shoot or kill any game animal, game bird or fur-bearing animal must have a license from the Department of Fish, Wildlife and Parks.

Statute: 87-2-106, MCA

Rule: ARM 12.3.101-301

Contact: Department of Fish, Wildlife and Parks
Centralized Services Division
License Bureau

2. Application Requirements

The applicant for a hunting, trapping or fishing license must complete the information required on the license application.

3. Fees

Various, contact DFWP, License Bureau.

4. Permitting Procedures

General hunting and fishing licenses are issued at the time of application. Special hunting licenses are issued via a random computer drawing process with a permit application deadline of June 1. The drawing process requires two to three months. Nonresident combination big game licenses are limited and are issued on a first come - first serve basis with an application deadline of March 15.

5. Criteria

All applicants are eligible if they meet residence requirements, hunter safety instruction and age limits.

COMMERCIAL SEINING

1. Types of Activities Regulated

Any person who wishes to seine or capture and sell non-game minnows in any lake, stream or body of water must obtain a license from the DFWP.

Statute: 87-4-602, MCA

Rule: ARM 12.7.201(1)

Contact: Department of Fish, Wildlife and Parks
Fisheries Division
Regional Offices for Minnows

2. Application Requirements

The applicant for a commercial seining license must submit a form provided by the department, stating name, address, waters desired for seining and other information relating to the applicant's experience.

Rule: ARM 12.7.201(1)

3. Fees

The fee for a commercial seining license is $10.

Rule: ARM 12.7.201(2)

HUNTING, FISHING AND TRAPPING REGULATIONS

1. Types of Activities Regulated

Hunting, fishing and trapping regulations are issued annually. Check with the DFWP for the latest requirements. Regulations govern specific activities in various areas throughout the state.

Contact: Department of Fish, Wildlife and Parks
Law Enforcement Division

ICE FISHING SHELTER REGULATIONS

1. Types of Activities Regulated

People who use shelters on frozen waters at Brown's Lake, Georgetown Lake, Deadman's Basin, Lake Frances, Bearpaw Lake, Beaver Creek Reservoir,

Hauser Lake and Lake Helena must adhere to the regulations for using ice fishing shelters.

Statute: 87-1-303, MCA

Rule: ARM 12.6.101-108

Contact: Department of Fish, Wildlife and Parks
Law Enforcement Division
Fisheries Division

SHOOTING PRESERVES

1. Types of Activities Regulated

The DFWP issues operating licenses or permits for shooting preserves. All persons hunting on shooting preserves must have a valid resident or nonresident game bird license. Each shooting preserve is restricted to not more than 1,280 contiguous acres. No preserve may be located closer than 10 miles from another preserve or in areas that will substantially reduce hunting areas available to the public. Game that may be hunted on such a preserve is limited to artificially propagated pheasants, quail, partridges, turkeys and other species as prescribed by the DFWP.

Statute: 87-4-501 through 504, MCA

Contact: Department of Fish, Wildlife and Parks
Law Enforcement Division

2. Fees

Fees for shooting preserve licenses or permits are $50 per year for the first 160 acres of shooting preserve area, plus $20 per year for each additional 160 acres.

Statute: 87-4-503, MCA

3. Additional Information

The DFWP will furnish self-locking pheasant tags to licensed shooting preserve operators for 10 cents each. The tags must then be used by persons hunting on the preserve.

Statute: 87-4-501, 525, MCA

Rule: ARM 12.6.1201

USE OF POISON BAITS ON DEPARTMENT LANDS

1. Types of Activities Regulated

No 1080 baits can be placed on DFWP lands without written permission from the Fish and Game Commission.

Statute: 87-1-201, MCA

Rule: ARM 12.9.106

Contact: Department of Fish, Wildlife and Parks
Wildlife Division

WILD BIRD PERMITS

1. Types of Activities Regulated

A. No person may hunt, capture, possess, sell or transport any non-game wild bird or part of a wild bird without a certificate or permit from the DFWP. Exceptions are sparrows, crows, starlings, magpies, rock doves, blackbirds and other species designated by the DFWP and also the possession or transportation of parts or plumage of eagles used for religious purposes by a member of an Indian tribe when permitted by federal law.

B. It is unlawful for any person to possess or train a falcon, hawk, eagle, osprey or owl in the practice of falconry without a license. The DFWP may, however, grant permits to a person, whether licensed or not, for the taking and holding of raptors for commercial breeding purposes under certain specific conditions.

C. A permit is required from the DFWP to hunt, take, capture or possess a wild bird for the purposes of banding for scientific studies, salvaging birds killed in accidents, collecting abandoned birds' nests for schools and museums, and nursing sick or injured birds.

Statute: 87-5-201, 202, 204, 210, MCA

Rule: ARM 12.9.301

Contact: Department of Fish, Wildlife and Parks
Wildlife Division
Law Enforcement Division

2. Fees

The fee for a falconry license is $3 per year. No fee is charged for a wild bird permit. A $20 fee is charged for a captive raptor breeding permit.

Statute: 87-5-204(2), 210, MCA

Rule: ARM 12.9.301(5)

BREEDING GAME BIRDS AND ANIMALS

1. Types of Activities Regulated

Any person or corporation wishing to operate a game, game-bird or fur farm must obtain a permit from the DFWP (see ROADSIDE ZOOS POSSESSION OF WILD ANIMALS, p.44).

Statute: 87-4-401, 402, MCA

Contact: Department of Fish, Wildlife and Parks
Law Enforcement Division

FUR DEALERS

1. Types of Activities Regulated

Any person or corporation trading in skins or pelts of fur bearers or predators must secure a fur dealer's license from the DFWP. The license is issued annually and expires April 30 of each year.

Statute: 87-4-301, MCA

Contact: Department of Fish, Wildlife and Parks
Law Enforcement Division

2. Fees

The fee for a resident fur dealer's license is $10, the fee for a nonresident fur dealer's license is $50 and the fee for a fur dealer's agent license is $10.

Statute: 87-4-304, MCA

IMPORTATION OF FISH, FISH EGGS AND WILDLIFE

1. Types of Activities Regulated

A. It is unlawful to bring live or dead salmonid fish or eggs into Montana without written certification from the state of origin that the fish are free of diseases specified in ARM 12.7.501. The Department of Fish, Wildlife and Parks may inspect shipments of imported fish or eggs at any point in the state to ensure compliance with these regulations. The DFWP also may impound shipments for further inspecting and testing if reasonable cause exists.

Statute: 87-3-221, MCA

Rule: ARM 12.7.501

B. It is unlawful to transfer or introduce any fish or fish eggs into any body of water or to import game birds, game or fur bearing animals, or non-game wildlife into the state without approval from the DFWP.

Statute: 87-3-105, MCA

OUTFITTERS AND GUIDES

1. Types of Activities Regulated

No person may act as an outfitter, professional guide or resident guide without first obtaining a license from the DFWP. The applicant may be issued a general or special license.

Statute: 87-4-121, MCA

Rule: ARM 12.6.501

Contact: Department of Commerce
Business Regulation Division
Professional and Occupational Licensing Bureau
Board of Outfitters

2. Application Requirements

A. Applicants for an outfitter's or professional guide's license must complete the application form furnished by the DOC. The application must be filed with the director, and must include information regarding the applicant's experience, knowledge and equipment.

B. A person may make only one application for an outfitter's or guide's license in any one license year. An examination for proficiency in several areas is required.

C. An outfitter must be at least 18 years old, mentally and physically competent, own or hold under written lease the necessary equipment and facilities for the type of service to be provided; be a person with demonstrated respect for and compliance with the laws of any state or the United States regarding fish and game, natural resources conservation and preservation of the natural ecosystem; not have been convicted of more than one violation of the fish and game laws of any state or the United States within the past five years, or of any act of gross negligence or misconduct and have a minimum of five years' experience in hunting and related activities and a minimum of two years' work as a professional guide with a licensed general outfitter or two years as a licensed special outfitter.

D. A professional guide must be at least 18 years old, mentally and physically competent, be endorsed and recommended by an outfitter with a valid license, and not have been convicted of

more than one violation of fish and game laws in the U.S. with in the past five years, or any act of gross negligence or misconduct.

Statute: 87-4-122 through 125, MCA

Rule: ARM 12.6.509, 510

3. **Fees**

The Department of Commerce has established a fee schedule by rule.

Statute: 87-4-127, MCA

ROADSIDE ZOOS - POSSESSION OF WILD ANIMALS

1. **Types of Activities Regulated**

A. It is unlawful to operate a roadside menagerie or zoo (a place where one or more wild animals, birds or reptiles are kept in captivity for exhibition or attracting trade) without a permit from the DFWP.

B. It is unlawful to possess a wild animal (skunk, fox, raccoon, bat or other designated animals capable of transmitting rabies) except as part of a fur-bearing enterprise, zoo, or for scientific research. Animals possessed for six months prior to January 1, 1982 are exempt.

Statute: 87-4-803, MCA
50-23-101, *et seq.*, MCA

Rule: ARM 12.6.1301

Contact: Department of Fish, Wildlife and Parks
Law Enforcement Division - roadside zoos

Department of Health and Environmental Sciences
Health Services Division

2. **Application Requirements**

Application for a roadside menagerie or zoo permit must be completed on forms provided by the DFWP. No permit can be issued or renewed until the roadside zoo or menagerie is covered by an insurance policy to cover accidents on the premises.

Statute: 87-4-803, MCA

Rule: ARM 12.6.1308

3. **Fees**

The annual permit fee for five or fewer animals is $10. The annual fee for more than five animals is $25.

Statute: 87-4-803, MCA

SNARE TRAPPING

1. **Types of Activities Regulated**

Snare traps may be used lawfully to take predators, furbearers, unprotected nongame animals and unprotected nongame birds. It is unlawful to set snare traps on private property without the owner's consent. Traps must be tagged with proper identification and set so as not to unduly endanger livestock.

Statute: 87-3-107, MCA

Rule: ARM 12.6.1001

Contact: Department of Fish, Wildlife and Parks
Law Enforcement Division

PREDATOR CONTROL - AERIAL HUNTING

1. **Types of Activities Regulated**

Aerial hunting of predatory animals without a permit is prohibited by anyone except employees of the state, its subdivisions or the federal government within the scope of employment. Any landowner having residence and domicile in Montana may engage in the aerial hunting of predatory animals over his land without a permit, provided he annually notifies the Department of Livestock in writing that he plans to engage in aerial hunting and gives an adequate description of the location of the land over which he will hunt.

Statute: 87-7-501, 505, MCA

Rule: ARM 32.22.101

Contact: Department of Livestock
Vertebrate Pest Control Bureau

2. **Application Requirements**

Applicants for an aerial hunting permit must apply to the Department of Livestock on forms provided by it. Permits issued to nonresidents may be used only in Montana counties adjacent to the state line that are inadequately serviced by resident permittees or on real property in Montana owned by the nonresident permittee.

Statute: 81-7-503, MCA

Rule: ARM 32.22.102

3. **Fees**

Fees for permits are as follows: (a) $30 for less than one year; (b) $40 for 1-2 years; (c) $50 for 2-3 years.

Statute: 81-7-504, MCA

Rule: ARM 32.22.103

LODGING - CAMPING - RECREATION

CAMPGROUNDS - TRAILER COURTS - WORK CAMPS

1. Types of Activities Regulated

Licenses from the Department of Health and Environmental Sciences are required for operating campgrounds, trailer courts and work camps and validation must be obtained from the local health officer. Acceptable plans must be submitted to the DHES and the health officer. Operators of water supply systems for trailer courts must be certified by the Board of Water and Wastewater Operators. Trailer courts, work camps and campgrounds may also require review under the subdivision laws. (see SUBDIVISIONS, p.80 and PUBLIC WATER SUPPLY, p.90)

Statute: 50-52-101 *et seq.*, MCA

Rule: Trailer Courts and Tourist Campgrounds; ARM 16.10.703
Work Camps; ARM 16.10.905

Contact: Local Board of Health

Department of Health and Environmental Sciences
Environmental Sciences Division
Food and Consumer Safety Bureau

2. Application Requirements

Application for a license to operate a tourist campground, trailer court or camp must be made to the DHES on appropriate forms. Licenses expire on December 31 of the year issued. Scaled layout plans of a proposed house-trailer park must be prepared and submitted to the DHES and the local health authority for approval prior to beginning construction.

Statute: 50-52-201, 203, MCA

3. Permitting Procedures

A. The local health officer must validate the license within 15 days after issuance by the DHES. Failure to do so results in a denial of the license.

B. A refusal to validate by the local health officer may be appealed to the local Board of Health within 30 days.

Statute: 50-52-208, 209, MCA

4. **Fees**

The fee for a license is $30.

Statute: 50-52-202, MCA

SNOWMOBILES

1. **Types of Activities Regulated**

Before operating a snowmobile on public land, trails, easements, lakes, rivers, streams, roadways or shoulders of roadways, streets, or highways, the owner must obtain a certificate of ownership and registration decal which must be displayed in a conspicuous place on the cowl of the vehicle.

Statute: 23-2-601 *et seq.*, MCA

Contact: County Treasurer

Department of Fish, Wildlife and Parks
Enforcement Division

2. **Permitting Procedures**

Application for a certificate of ownership and registration decal must be made to the county in which the owner resides. Registration decals expire on June 30 of the year of issuance and must be renewed annually.

Statute: 23-2-611 and 616, MCA

3. **Fees**

Application for Certificate of Ownership is $3.00; Registration Decal, $2.50; Annual Fee in lieu of property tax, $22.00 for vehicles less than four years old, $15.00 for all other vehicles. Proof of payment is required to obtain registration decals. Non resident temporary use permit, $6.00.

Statute: 23-2-611, 23-2-615, MCA

4. **Additional Information**

A. Exemptions
Certification and registration requirements do not apply to snowmobiles owned or operated by the U.S. or another state or to snowmobiles registered in another state or country and temporarily used within Montana pursuant to a temporary use

permit (valid for 30 days or less) issued by the Department of Fish, Wildlife and Parks.

Statute: 23-2-614, MCA

B. Noise Restrictions
Snowmobiles must be equipped at all times with noise suppression devices. In addition, the following noise levels, measured at a distance of 50 feet, may not be exceeded:

1) 82 dB(A) for machines manufactured after June 30, 1972, but prior to June 30, 1975, and

2) 78 dB(A) for machines manufactured after June 30, 1975.

The noise restrictions do not apply to snowmobile races or competitive events held on private lands or to such events held on public lands provided consent from the appropriate government unit is obtained and the total sound produced does not exceed 50 dB(A) at any point 50 feet or more outside the area under the control of the sponsoring entity.

Statute: 23-2-634, MCA

Rule: ARM 12.6.602

MINING

RECORDING OF MINING CLAIMS

1. Types of Activities Regulated

Any person who discovers a vein, lode or ledge of rock on federal land bearing valuable mineral deposits must follow these procedures:

A. Post a written notice at the point of discovery;

B. Within 30 days, mark boundaries of the site;

C. Within 60 days, comply with United States mining laws and record the location with the county clerk and recorder, who in turn must provide a copy within 20 days to the Department of State Lands; and

D. File an annual work report with the county.

Statute: 82-2-101 *et seq.*, MCA

Contact: County Clerk and Recorder

U.S. Department of the Interior
Bureau of Mines
Regional Office

LANDOWNER NOTIFICATION

1. Types of Activities Regulated

When surface and mineral rights are in separate ownership, the surface owner must be notified and give his or her approval in writing of the proposed operations before any prospecting, exploration or development of subsurface minerals can take place.

Statute: Landowner Notification Act, 82-2-301 *et seq.*, MCA

Contact: Surface Owner

MINING RIGHT-OF-WAY

1. Types of Activities Regulated

The owner of mining rights may establish a right-of-way over adjacent lands if necessary to work the claim. The right-of-way may be for roads, ditches,

flumes, and other mine-related purposes. Application is made to the district court.

Statute: 82-2-201 *et seq.*, MCA

Contact: District Court

2. **Permitting Procedures**

A. If the mine owner cannot obtain the agreement of adjacent landowners for right-of-way, he may file a complaint in district court requesting that a right-of-way be created.

B. After receipt of the complaint, the district judge must issue a summons to the parties requiring appearance before the court within 10 days.

C. If the judge determines that the right-of-way is needed, he must award the mine owner the right-of-way and establish a commission of three persons to assess damages to the lands used as right-of-way.

D. Use of right-of-way can commence only upon payment of the assessed damages.

Statute: 82-2-203 through 208, MCA

3. **Additional Information**

Any party may appeal the commissioners' assessment of damages to the district court within 10 days after the report is filed.

Statute: 82-2-209, MCA

COAL AND URANIUM MINING: PROSPECTING PERMITS

1. **Types of Activities Regulated**

A coal or uranium mine operator must obtain a prospecting permit from the Department of State Lands for prospecting on lands not included in a current operating permit. A reclamation plan and bond must be submitted. The permit is valid for one year and must be renewed.

Statute: Strip and Underground Mine Reclamation Act, 82-4 201 *et seq.*, MCA

Rule: ARM 26.4.1001-1015, 1101-1125

Contact: Department of State Lands
Reclamation Division

2. Application Requirements

A. The application for a prospecting permit must be made in writing, notarized and submitted to the DSL in duplicate on forms furnished by the department. A detailed prospecting map and a prospecting reclamation plan must accompany the application. A description of the proposed method of exploration and type of equipment to be used must be included. Prior to obtaining a prospecting permit, the applicant must file a reclamation and revegetation bond with the DSL in an amount determined by the department, based upon the estimated cost to the DSL of required reclamation and restoration work.

B. At least 30 days but not more than 60 days prior to the permit's anniversary date, the operator may submit an application for a permit renewal stating the number of holes permitted and drilled, listing surface disturbances and supplying an updated map.

Statute: 82-4-226, MCA

Rule: ARM 26.4.1001, 1003, 1102

3. Fees

The application fee for a prospecting permit is $100.

Statute: 82-4-226(3), MCA

4. Criteria

The permit for prospecting for coal and uranium may be denied for numerous reasons, including, but not limited to, adverse reclamation possibilities, exceptional topographic characteristics, biological productivity, ecological fragility, historic or geologic importance, or threat of a public hazard.

Statute: 82-4-227, 228, MCA

Rule: ARM 26.4.1141-1148

COAL AND URANIUM MINING: MINE SITE LOCATION PERMITS

1. Types of Activities Regulated

A mine site location permit is required prior to commencing any preparatory work (i.e., any on-site disturbances, including construction of roads, rail spurs, buildings, power lines, etc., but excluding prospecting) unless an operating permit has been granted under the Strip and Underground Mine Reclamation Act (see COAL AND URANIUM MINING: OPERATIONS, p.54) and the application for such a permit includes a long-range mining

plan. The siting permit is valid for one year and renewable until an operating permit is obtained.

Statute: Strip and Underground Mine Siting Act, 82-4-101, MCA

Contact: Department of State Lands
Reclamation Division

2. **Application Requirements**

Any person who desires a mine-site location permit must file an application with the Department of State Lands. The application must contain a reclamation plan for any preparatory work and other information required by the DSL. The DSL may require maps showing a water drainage plan, location of all adjacent water, buildings, roads, cemeteries, etc.; geologic cross sections; a public liability insurance policy, etc. The applicant is also required to file with the DSL a surety bond payable to the state in a sum determined by the Board of Land Commissioners. The sum may not be less than $200 or more than $10,000 for each acre of land disturbed by preparatory work, with a minimum total bond of $5,000.

Statute: 82-4-122, 123, MCA

Rule: ARM 26.4.1101-1129

3. **Permitting Procedures**

The Department of State Lands must notify the applicant of its decision within 365 days of receipt of the complete application. If the proposed site is approved, the DSL must issue a mine-site location permit. If the location is not approved, the DSL must notify the applicant in writing, stating reasons why the location is unacceptable. The DSL must also notify the applicant within 365 days of the acceptability of the mine plan. If the plan is not acceptable, the DSL must state its reasons. It may propose modifications, delete areas or reject the entire plan.

Statute: 82-4-122, MCA

4. **Fees**

A fee of $50 is required for a mine-site location permit.

Statute: 82-4-123, MCA

5. **Criteria**

The mine-site location permit may be denied for numerous reasons, including, but not limited to: inadequate reclamation plan, adverse reclamation possibilities, exceptional topographic characteristics, biological

productivity, ecological fragility, historic or geologic importance, threat of a public hazard, or designation of the land as unsuitable for mining.

Statute: 82-4-125, 227, 228, MCA

Rule: ARM 26.4.1141-1148

COAL AND URANIUM MINING: OPERATIONS

1. Types of Activities Regulated

An operator must obtain a permit from the Department of State Lands before engaging in strip or underground mining. The permit must designate all lands reasonably anticipated to be mined during the applicable 5-year period. A permit is renewable on each 5-year anniversary upon application to the DSL at least 120 but not more than 150 days prior to the renewal date so long as the operator is in compliance with the permit requirements and the reclamation plan. As rapidly, completely and effectively as the most advanced state of the art will allow, the operator must reclaim and revegetate the land affected by his operation, except that underground tunnels or shafts need not be revegetated. The Workers' Compensation Division of the Department of Labor and Industry enforces mine safety regulations.

Statute: Montana Coal Mining Code (Mine Safety) 50-73-101 *et seq.* and Strip and Underground Mine Reclamation Act, 82-4 201 *et seq.*, MCA

Rule: ARM 24.30.1302, 26.4.301-1309

Contact: Department of Labor and Industry
Workers' Compensation Division
Safety and Health Bureau

Department of State Lands
Reclamation Division

2. Application Requirements

A. Permit

An operator desiring a coal or uranium mining permit must file an application furnished by the Department of State Lands that contains a complete and detailed plan for the mining, reclamation, revegetation and rehabilitation of the land and water proposed to be affected by the operations. The application must include information regarding climate, geology, hydrology, neighboring surface waters, vegetation, etc. For applications to mine areas containing federal coal, ten copies of all applications, maps, reports and other information are required. Three copies must be sent to the DSL and seven to the office of Surface Mining, U.S. Department of the Interior. For applications to mine areas not containing federal coal, three copies of all applications, maps, reports and other information must be submitted to the DSL. Each applicant for a coal mining permit must also submit as part of the application a certificate issued by an insurance company

authorized to do business in Montana verifying that he applicant has a public liability insurance policy for the strip or underground mining and reclamation operations for which the permit is sought. In addition, prior to the issuance of a permit, the operator must file with the DSL a bond payable to the State of Montana with surety satisfactory to the department in a sum to be determined by the Board of Land Commissioners of not less than $200 for each acre or fraction of an acre of the land affected, with the minimum bond to be $10,000. If federal coal is involved the bond shall also be made payable to the U.S. Department of Interior, office of Surface Mining Reclamation and Enforcement as surety.

B. Reclamation Plan
The reclamation plan must set forth in detail the manner in which the applicant intends to comply with provisions regarding grading, backfilling, water control, topsoiling, reclamation and coal conservation, as well as measures to be taken to eliminate damages to landowners and members of the public, their real and personal property, public roads, streams and all other public property from soil erosion, subsidence, landslides, water pollution and hazards dangerous to life and property. In addition, the plan must list the steps to be taken to comply with applicable air and water quality laws and rules and any applicable health and safety standards.

Statute: 82-4-222, 223, 231, MCA

Rule: ARM 26.4.302, 308

3. **Permitting Procedures**

A. The application for a permit or major revision of a permit, including the reclamation plan, must be submitted to the DSL, which then notifies various local governments, planning agencies, sewage and water treatment authorities, and water companies in the area of the proposed mining. Any person interested in the proposed mining, or any officer of a federal, state or local governmental agency may file written objections to the application within 30 days of the applicant publishing notice of the proposal in an area newspaper. If written objections are filed and an objector requests an informal conference, the DSL must hold an informal conference in the area of the proposed mining and notify all parties of the conference.

B. The DSL must notify the applicant by certified or registered mail within 120 days after receipt of the complete application regarding acceptability of the plan. If the application is not acceptable, the applicant may revise the application. The DSL then has another 120 days to render its decision concerning acceptability. The DSL may also prepare modifications to the application.

C. An acceptable application triggers public notice of the proposal. A landowner, operator or any person affected by this decision may by written notice request a hearing by the Board of Land

Commissioners, and the hearing must be held within 30 days of the request. The board must issue its decision within 20 days.

D. Every reclamation plan is subject to annual review and modification.

Statute: 82-4-231, MCA

4. **Fees**

An application fee of $100 is required prior to issuance of a permit.

Statute: 82-4-223, MCA

5. **Criteria**

The permit for coal and uranium mining operations may be denied for numerous reasons, including, but not limited to: inadequate reclamation plan, adverse reclamation possibilities, exceptional topographic characteristics, proposed location on a significant alluvial valley floor, biological productivity, ecological fragility, threat of a public hazard or designation of the land as unsuitable for mining. (See also, WATER POLLUTION: DISCHARGE PERMITS, p.92 and AIR QUALITY PERMITS, p.19)

Statute: 82-4-227, 228, MCA

Rule: ARM 26.4.1141-1148

URANIUM - SOLUTION EXTRACTION

1. **Types of Activities Regulated**

In addition to a mining permit from the Department of State Lands (see COAL AND URANIUM MINING, p.51), permits are required from the Department of Health and Environmental Sciences for uranium mining by the solution extraction (in-situ) method.

Statute: 75-5-401 through 404, 82-4-201 *et seq.*, MCA

Rule: ARM 16.20.1101 *et seq.*

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau

Department of State Lands
Reclamation Division

2. **Application Requirements**

The owner or operator of any proposed source discharging pollutants to groundwater for purposes of in-situ mining must file a completed Montana In-Situ Mining of Uranium Control System (MIMUCS) permit application no less than 180 days prior to commencing operations. The following information is required: site definition, including an extensive topographic map of the area; plans for retention of process waters and the disposal of waste waters; plans for emergency storage, handling, treatment and disposal of leaks and spills from the waters pumped underground; a detailed monitoring program to establish baseline water quality in the production area, accompanied by maps of monitoring wells; procedures to be used to prevent leachate excursion; actions taken to confirm, determine the extent of and correct an excursion; description of well completion; various information, including a chemical description of all waste residue; proposed procedure for restoration of affected groundwater; reclamation measures, and any other information the DHES deems appropriate.

Rule: ARM 16.20.1105

3. **Permitting Procedures**

A. In order to determine an applicant's capability to conduct in-situ mining, pilot testing may be required by the Department of Health and Environmental Sciences after receipt of a MIMUCS permit application.

B. Upon receipt of the application and after any required pilot testing, the DHES must make a tentative determination regarding issuance or denial of the MIMUCS permit.

C. Criteria for denial are: (1) the application is inadequate or (2) degradation of state waters cannot be prevented.

D. If the tentative decision is to issue the permit, the DHES must mail the MIMUCS application to any interested person and circulate it within the geographic area.

E. The DHES must provide a period of not less than 30 days following the public notice to allow for written public comment.

F. A request for a public hearing must be made within the 30-day period cited in E above. Public notice of any hearing on the permit application must be circulated at least 30 days prior to the hearing.

G. If no hearing is held, the DHES must make a final determination on the application no later than 180 days after receipt of the completed application. If a hearing is held, the DHES must make a final determination following review of the information presented at the hearing.

H. A permit is issued for a fixed term, not to exceed 10 years.

Rule: ARM 16.20.1106, 1107, 1108, 1110, 1115

HARDROCK MINING: EXPLORATION

1. Types of Activities Regulated

Hardrock mining laws apply to ores other than oil, gas, bentonite, clay, coal, sand, gravel, phosphate rock or uranium. An exploration license is required from the Department of State Lands and a reclamation and revegetation bond must be posted. Exemptions are made for operations conducted on federal lands if the Board of Land Commissioners determines that applicable federal rules are as stringent as the state requirements, and for persons collecting rock samples as a hobby or for sale in any amount not exceeding $100 per year.

Statute: 82-4-301 *et seq.*, MCA

Rule: ARM 26.4.101 *et seq.*

Contact: Department of State Lands
Reclamation Division

2. Application Requirements

The application for an exploration license must be made in writing, notarized and submitted to the DSL in duplicate on forms furnished by the department. An exploration map or detailed sketch must accompany the applications. The DSL determines the amount of the reclamation and revegetation bond, which cannot be less than $200 or more than $2,500 for each acre or fraction thereof of the disturbed area. The operator must agree to reclaim any damaged land and not be in default of any other reclamation law.

Statute: 82-4-332, 338, MCA

Rule: ARM 26.4.102, 103, 1101-1120

3. Permitting Procedures

On approval by the Board of Land Commissioners, the applicant will receive a hardrock exploration license renewable annually on application and payment of renewal fee.

Rule: ARM 26.4.102

4. **Fees**

The fee for an exploration license is $5.

Statute: 82-4-332, MCA

Rule: 26.4.102

HARDROCK MINING: OPERATIONS

1. **Types of Activities Regulated**

A. An operating permit must be obtained from the Department of State Lands prior to commencement of mining. (See HARDROCK MINING: EXPLORATION, p.58, for some exemptions.) A reclamation and revegetation bond is required, and a reclamation plan must be submitted. Annual reports and fees are required, and the DSL makes annual inspections for compliance with the reclamation plan.

The Workers' Compensation Division enforces safety regulations. The Division's Safety Bureau works with the mine operator and mining contractors who must report the name of the mine, the location of the mine, the name of the company and contractors operating the mine, the type of mining activity, the date mining activity will begin and other information. (See WATER POLLUTION: DISCHARGE PERMITS, p.92)

B. "Small miners" are exempt. A "small miner" is an operator or reprocessor who removes less than 36,500 tons annually, who does not hold an operating permit for other operations in the state and whose operations leave no more than five acres disturbed and unreclaimed - or two operations, each less than five acres, that are at least one mile apart and are not operated simultaneously. "Disturbed land" includes all access roads except those roads required by a federal, state or local agency that are built to the agency's specifications. The small miner must sign a small miner's exclusion, available at the Department of State Lands, which says that he or she will not pollute streams and will protect human and animal safety. (See WATER POLLUTION: DISCHARGE PERMITS, p.92)

Statute: 82-4-301 *et seq.*, and 50-72-101 *et seq.*, MCA

Rule: ARM 26.4.101 *et seq.*, and 24.30.1301

Contact: Department of State Lands
Reclamation Division

Department of Labor and Industry
Workers' Compensation Division
Safety and Health Bureau

2. Application Requirements

The applicant must obtain an operating permit for each mine complex, on a form obtained from the Department of State Lands, containing the proposed minerals to be mined, proposed reclamation plan, mining plan and a detailed map of the area. The applicant must file a surety bond in an amount determined by the Department of State Lands of not less than $200 or more than $2,500 for each acre or fraction thereof of the disturbed area. Despite these limits, the DSL may not accept a bond for less than the amount required for the state to reclaim the disturbed area.

Statute: 82-4-335, 338, MCA

Rule: ARM 26.4.107, 1101-1120

3. Permitting Procedures

A. All applications for hardrock mining permits must be reviewed for completeness within 30 days. The application is considered complete unless the applicant is notified of any deficiencies within 30 days.

B. Unless the review period is extended, the Board of Land Commissioners must review the adequacy of the proposed reclamation plan and mining plan within 30 days of the determination that the application is complete or within 60 days if the board does not notify the applicant of any deficiencies in the application.

C. Prior to issuance of a permit, the DSL must inspect the site. If the site is not accessible due to extended adverse weather conditions, the DSL may extend the time period described in B by not more than 180 days to allow for inspection of the site. If the DSL determines that additional time is needed to review the application and reclamation plan for a major operation, the department and applicant must negotiate to extend the period described in B above by not more than 365 days.

D. The operating permit must provide that the reclamation plan may be modified by the board after timely notice and opportunity for hearing.

Statute: 82-4-335, 337, MCA

4. Fees

The application fee for a hardrock mining permit is $25.

Statute: 82-4-335, MCA

Rule: ARM 26.4.107

5. Criteria

An operating permit may be denied if (1) the plan of development, mining or reclamation conflicts with the Montana Clean Air Act (75-2-101 *et seq.*, MCA, p.19), the Montana Water Quality Act (75-5-101 *et seq.*, MCA, p.92), the Public Water Supply Act (75-6-101 *et seq.*, MCA, p.80), or (2) the reclamation plan is insufficient to accomplish the proposed reclamation.

6. Additional Information

Large Scale Developments

A. When a proposed mining project will employ 75 or more people in any consecutive six-month period in the construction or operation of the mine or associated milling facilities, the applicant must submit an economic impact plan to the affected counties and to the Hardrock Mining Impact Board. The plan must include development timetables, work-force projections, population inmigration projections, projected local government service and facility needs, and costs resulting from the development. The developer must commit to pay any increased development costs to the local government and, if requested, must provide financial or other assistance to local governments to prepare for and evaluate the impact plan.

B. The affected local governments have 90 days in which to submit objections to the impact plan to the Impact Board. The board may grant one 30-day extension to the review period. If objections cannot be resolved, the Impact Board will hold a hearing. Within 60 days after the hearing, the board will issue findings and amend the impact plan as necessary.

C. Impact plan review is conducted concurrently with the Department of State Lands permit review.
Within 30 days after receipt of the approved plan, the developer must provide a written guarantee that it will make all payments according to the schedule in the approved plan. Activities under the permit may not commence until the impact plan is approved and the permittee has provided a written guarantee to the DSL and to the Hard-Rock Mining Impact Board. If the plan requires prepayment of taxes, the developer must also provide a financial guarantee to the board. Under certain circumstances, as specified by statute or the plan itself, the developer or an affected county may petition the board for an amendment to the impact plan.

D. Based on periodic employee reports from mine permittees, DSL must identify permittees that become "large-scale mineral developers" after receiving an operating permit and must notify the permittee, the board and the county in which the mine is located. After providing opportunity for public hearing, the board may require an impact plan or may issue a waiver or conditional waiver for the impact plan request. Compliance with the terms of a conditional waiver becomes a condition of the permittee's operating permit. Upon request of a local government, a waiver

may be revoked either by conditions specified by law or in the conditional waiver.

Statute: 90-6-301 *et seq.*, MCA

Rule: ARM 8.104.202 *et seq.*

Contact: Board of County Commissioners

Department of Commerce, Impact Section

Division of Community Development
Hardrock Mining Impact Board

OPENCUT MINING

1. Types of Activities Regulated

Opencut mining applies to bentonite, clay, scoria, phosphate rock, sand or gravel. No mining is allowed unless the miner has entered into a reclamation contract with the Board of Land Commissioners. An air quality permit for operation of any mineral crushing plant must also be obtained from the Department of Health and Environmental Sciences, Air Quality Bureau. Exemptions may be available for state and local government agencies, small operations, (less than 10,000 cubic yards removed since 1973) or for federal lands, if the board determines that federal regulations are at least as stringent as state requirements.

The Workers' Compensation Division of the Department of Labor and Industry enforces safety regulations. The Division's Safety Bureau works with the mine operator and mining contractors who must report the name of the mine, the location of the mine, the name of the company and contractors operating the mine, the type of mining activity, the date mining activity will begin and other information.

Statute: Open Cut Mining Act, 82-4-401 *et seq.*, 50-72 101 *et seq.* (mine safety), 75-2-204, 211 (air quality), MCA

Rule: ARM 26.4.201 *et seq.*, 24.30.1301, 16.8.1102

Contact: Department of State Lands
Reclamation Division
Opencut Bureau

Department of Labor and Industry
Workers' Compensation Division
Safety and Health Bureau

Department of Health and Environmental Sciences
Environmental Sciences Division
Air Quality Bureau

2. Application Requirements

An operator must submit an application for a reclamation contract to the Department of State Lands on forms approved by the Board of Land Commissioners. Two copies of all submitted materials are required. Also required are a bond of at least $200 for each affected acre, plans of the intended operations and other details of the mine operation. The operator also must submit a reclamation plan to the board before commencing any open cut mining. The board must approve the plan within 30 days, unless the period is extended an additional 30 days.

Statute: 82-4-432, 433, 434, MCA

Rule: ARM 26.4.203

3. Permitting Procedures

The application form and accompanying materials (contract, bond, map(s) and reclamation plan) are reviewed for completeness to ensure that each item is addressed correctly. An on-site evaluation is conducted to determine the mineability and reclaimability and to make sure site conditions are as specified in the application. (This may be conducted with the applicant and other interested persons.) If additions or changes are necessary, the applicant will be notified within 10 working days. If all is complete, the reclamation contract is signed by the commissioner.

4. Fees

An application fee of $50 is required for an open cut mining contract.

Statute: 82-4-432, MCA

5. Criteria

The Board of Land Commissioners will only enter into a contract with the operator if the bond, reclamation plan and other requirements of Title 82, Chapter 4, Part 4 are fulfilled. The reclamation plan must ensure that the operator will establish vegetative cover commensurate with the proposed land use, will appropriately protect ground and surface water and will remove or bury metal and other waste, among other considerations. (see also WATER, p.90 and AIR QUALITY PERMITS, p.19)

Statute: 82-4-432 through 434

Rule: ARM 26.4.204

OPERATIONS ON STATE LANDS: PROSPECTING

1. Types of Activities Regulated

Prospecting leases must be obtained from the Department of State Lands to prospect for metalliferous metals (gold, silver, lead, zinc, copper, platinum, iron and all other metallic minerals) or gems (sapphires, rubies and other

stones known as "precious" or "semiprecious," but not including stones used in construction work) on state lands.

Statute: 77-3-101 *et seq.*, MCA

Contact: Department of State Lands
Land Administration Division

2. Application Requirements

The applicant for a prospecting permit on state lands is required to pay the issuance fee. The permittee also must pay an annual fee during the life of the permit.

3. Fees

The prospecting permit fee is set by the DSL and approved by the Board of Land Commissioners. Check with the DSL.

Statute: 77-3-101, MCA

Rule: ARM 26.2.401

OPERATIONS ON STATE LANDS: COAL MINING

1. Types of Activities Regulated

Coal mining leases on state lands are awarded by competitive bidding at no less than fair market value. The primary term is 10 years and as long thereafter as coal is produced in commercial quantities. Rent and royalties must be paid. (See WATER POLLUTION: DISCHARGE PERMITS, p.92)

Statute: 77-3-301, *et seq.*, MCA

Rule: ARM 26.3.301 *et seq.*

Contact: Department of State Lands
Land Administration Division
Mineral Leasing Bureau

2. Application Requirements

All coal leases must comply with the Strip and Underground Mine Siting Act (82-4-101 *et seq.*, MCA, p.53) and the Strip and Underground Mine Reclamation Act, (82-4-201 *et seq.*, MCA, p.51). Mining operations must be systematic to the extent possible to prevent the waste of coal and to prevent more difficult or costly mining in subsequent operations. All applications for coal leases may be made at any time during the year on a form furnished by the Department of State Lands. An adequate and sufficient description of the lands sought for lease must be included.

Statute: 77-3-306, MCA

Rule: ARM 26.3.306

3. **Permitting Procedures**

A. When sufficient applications for leases have been received, a lease sale will be announced through publication in a trade journal of general circulation in the coal mining industry or in Montana's major newspapers for four weeks preceding the sale.

B. Prior to issuing a coal mining lease, the Board of Land Commissioners must evaluate the coal and land proposed for lease in order to determine the fair market value of any coal reserves located on the land.

C. Sales of state coal leases are through competitive bidding. The Department of State Lands may require a bid deposit in any amount it may determine, up to 10 percent of the appraised value of the coal offered for lease.

Statute: 77-3-312, MCA

Rule: ARM 26.3.306

4. **Fees**

A. A fee of $50 is required for a lease application.

B. Rent is on a per acre basis and it cannot be less than $2 per acre.

C. The lessee must pay in cash a royalty on all coal produced from the leased premises at a rate of not less than 10 percent of the coal's value.

Statute: 77-3-316, MCA

Rule: ARM 26.3.306, 309, 310

OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS

1. **Types of Activities Regulated**

The Board of Land Commissioners leases state lands for the purpose of mining for metalliferous minerals and gems (see HARDROCK MINING: EXPLORATION, p.58, for definitions) Royalties must be at least five percent of the full market value of the metalliferous minerals renewed under the lease.

Statute: 77-3-101 *et seq.*, MCA

Rule: ARM 26.3.601

Contact: Department of State Lands
Land Administration Division
Mineral Leasing Bureau

2. Application Requirements

Application for a mining lease must be made on forms furnished by the Department of State Lands.

Statute: 77-3-111, MCA

Rule: ARM 26.3.605
For uranium and other fissionable materials, see ARM 26.3.501 *et seq.*

3. Permitting Procedures

A. Leases are issued on a first come, first serve basis.

B. When the DSL receives an application for a lease, it may advertise for written bids on the tract of land for a reasonable time in the official county newspaper of the county where the tract is located.

C. If bids are accepted, the tract will be leased to the highest bidder unless the board determines that the bid is not in the state's best interest. All sales take place in the county courthouse of the affected county.

D. Prior to the leasing of state lands for mining, the DSL must conduct an investigation of the lands to determine the character of the lands for mining and the amount of royalty. The department may require the applicant to pay for this investigation in a sum not to exceed $500.

E. The lease will contain provisions on prospecting and mining, royalty, etc. The board also may require payment of a bond.

Statute: 77-3-111, 112, 119, 120, 121, MCA

Rule: ARM 26.3.603 *et seq.*

4. Fees

The fee for issuing the metalliferous mineral or gem mining lease is $50. No application fee is required. Royalties can not be less than five percent of net and rentals are set by the Board of Land Commissioners.

Rule: ARM 26.2.601 *et seq.*

OPERATIONS ON STATE LANDS: STONE, GRAVEL AND OTHER NON METALLIFEROUS MINERALS

1. Types of Activities Regulated

Leases for the mining of nonmetallic minerals (e.g., stone, limestone, oil shale, clay, bentonite, calcite talc, mica, ceramic, asbestos, marble, diatomite, gravel and sand, phosphate, sodium, potash, sulphur, fluorite, borite or any

other nonmetallic mineral, exclusive of coal, oil or gas) on state lands are issued on a royalty basis for up to a 10-year period and as long thereafter as production continues. The lessee shall have a preferential right of renewal of a producing lease under such readjustment of terms and condition as the board may determine to be necessary in the interest of the state. Monthly reports are required. The Board of Land Commissioners may issue permits on its terms and conditions to the Department of Highways, the Board of County Commissioners or any local government for the removal and use of stone, gravel or sand from state land for the construction and maintenance of streets, bridges, highways, etc. Compliance with air quality laws is also necessary (see AIR QUALITY PERMITS, p.19).

Statute: 77-3-201 *et seq.*, 75-2-204, 75-2-211, 82-4-231 and 336, MCA

Rule: ARM 16.8.1102

Contact: Department of State Lands
Land Administration Division
Mineral Leasing Bureau

Department of Health and Environmental Sciences
Environmental Sciences Division
Air Quality Bureau

2. **Application Requirements**

Applications must be made on forms supplied by the Department of State Lands.

3. **Permitting Procedures**

See: OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS, p.65.

4. **Fees**

The application fee of $15 is required for a nonmetalliferous lease. Upon issuance of the lease, an additional $25 fee is required.

Statute: 77-3-202, MCA

Rule: ARM 26.2.401

OIL AND GAS

OIL AND GAS

1. Types of Activities Regulated

Notices of intention to explore and to drill for oil and gas must be filed with the Board of Oil and Gas Conservation, and drilling permits must be obtained. Wells must comply with spacing units and pooling orders established by the BOGC and be operated in compliance with the board's regulations. Operators must also comply with water pollution regulations of the Department of Health and Environmental Sciences. If they propose to discharge fluids into surface waters a permit must be obtained (see WATER POLLUTION: DISCHARGE PERMITS, p.92). A public utility may apply to the board for certification of eminent domain power to maintain underground gas storage reservoirs. Waste of oil and gas is prohibited. Wells that inject waters produced with oil and gas into underground strata for purposes of disposal or enhanced recovery must receive a permit from the U.S Environmental Protection Agency and approval from the BOGC.

Statute: 82-11-101 *et seq.*, 82-10-305, MCA

Rule: ARM 36.22.601 *et seq.*

Contact: Department of Natural Resources and Conservation
Oil and Gas Conservation Division

Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau

U.S. Environmental Protection Agency
Helena Office

2. Application Requirements

Notice of intention to drill must contain information identifying the area where the activity would occur. Logs of the activity must be kept, surface lands restored to their previous grade and productive capability, fresh water supplies protected and wells drilled, cased, operated and plugged in accordance with board rules. The public may have access to records submitted to the board. A bond must be posted to guarantee proper abandonment procedures. No exploration or development drilling may take place until a permit is issued.

Statute: 82-11-122, 123, MCA

Rule: ARM 36.22.601

3. Permitting Procedures

A determination is made regarding whether the location is legal, and the plan of work, including spacing of wells and casing proposals, is reviewed. If the project complies with applicable statutes, rules and regulations, a permit is issued.

Statute: 82-11-115, MCA

4. Fees

Permit fees required for drilling of an oil or gas well are as follows:

A. For each well with an estimated depth of 3,500 feet or less, $25;

B. From 3,501 feet to 7,000 feet, $75;

C. 7,001 feet and deeper, $150.

Statute: 82-11-134, MCA

Rule: ARM 36.22.603

GEOPHYSICAL EXPLORATION

1. Types of Activities Regulated

Persons planning to engage in geophysical exploration must obtain an exploration permit from the county clerk and recorder.

Statute: 82-1-101, MCA

Contact: Secretary of State

County Clerk and Recorder

Board of Oil and Gas Conservation

2. Application Requirements

A. The applicant must file a notice of intent with the clerk and recorder of each county in which exploration will be conducted. If seismic exploration is planned, a copy on the notice of intent must also be filed with the BOGC.

B. The applicant must also file a surety bond with the Secretary of State for the purpose of indemnifying property owners against damage to property.

C. When notified that the surety bond has been filed, the county clerk and recorder will issue an exploration permit valid for the calendar year in which it is issued. The county clerk then notifies the Board of Oil and Gas Conservation, which checks whether the applicant is in compliance with all applicable laws and rules.

D. A report must be filed with the county clerk and recorder within three months after any firing of shot points in seismic exploration. Shot holes must be plugged as specified by the BOGC unless otherwise agreed to between the surface owner and the company.

E. Before commencing operations, the person must notify any surface users of the land as to the schedule and, upon request, the location(s) of planned exploration activities.

F. Exploration crews operating in the state must comply with crew identification requirements established by the BOGC.

Statute: 82-1-101, 103 through 108, MCA

Rule: ARM 36.22.502-504

4. Fees

The fee for a geophysical exploration permit is $5 per calendar year.

Statute: 82-1-105, MCA

OPERATIONS ON STATE LANDS: GEOPHYSICAL EXPLORATION

1. Types of Activities Regulated

A seismic exploration permit must be obtained from the Department of State Lands to explore for oil and gas by geophysical methods on state-owned lands where no oil and gas lease is held. An applicant must be qualified to do business in the state, post a surety bond, and provide proof of notification to the surface owner or lessee, the name and address of the exploration firm and the legal description of the area to be explored. A $10 fee must accompany the application, and a charge of $50 per hole or $100 per mile will be assessed. DSL regulations set forth restrictions and requirements relating to surface disturbances, proximity to surface water and structures, fire prevention, operations and plugging and abandonment of shot holes. A permit is good for one year. Reports must be submitted to the DSL within six months after termination of a permit.

Statute: 77-3-402, MCA

Rule: ARM 26.3.204, 205, 217, 223, 224, 225, 230-237

OPERATIONS ON STATE LANDS: OIL AND GAS

1. Types of Activities Regulated

The Board of Land Commissioners is authorized to lease any state owned lands for the purpose of oil and gas exploration or drilling and development. Corporations not incorporated in Montana must obtain a certificate of

authority to transact business in the state from the Secretary of State prior to applying for a lease.

Statute: 77-3-401, MCA

Rule: ARM 26.3.205

Contact: Department of State Lands
Lands Division
Mineral Leasing Bureau

2. **Permitting Procedures**

A. A person wishing to lease state lands for oil and gas operations must submit an application for a lease on forms furnished by the DSL.

B. Sale of oil and gas leases normally is held once each quarter (March, June, September, December). Sale of each lease takes place through competitive oral bidding.

C. Notice of each sale is published in the Montana Oil Journal or in one of the state's general circulation publications.

D. The primary term of an oil and gas lease may be for no more than 10 years and no less than five years unless the board deems that a shorter term is necessary. An oil and gas lease issued on state lands may not exceed 640 acres, except that any section surveyed by the United States containing more than 640 acres may be included under one lease. Leased lands must be generally compact and contiguous.

E. Owners of state oil and gas leases may enter into agreements with others for drilling and other operations. Pooling agreements are also possible. The board may approve assignment of oil and gas leases to qualified assignees.

Statute: 77-3-404, 405, 421, 429, 430, 438, MCA

Rule: ARM 26.3.206, 207

3. **Fees**

The fee required for an oil and gas lease application is $15. Rentals are not less than $100 per year. Royalties are 12.5 percent on gas and 13 percent on oil.

Rule: ARM 26.3.206, 209, 211

OPERATIONS ON CITY, COUNTY OR SCHOOL DISTRICT LANDS

1. Types of Activities Regulated

The governing body of any city, county or local school district may lease its property for oil and gas development. The term of the lease may not exceed 10 years, and royalties must be at least 12.5 percent.

Statute: 82-10-201 through 204, MCA

Contact: Local Governing Body

UNDERGROUND STORAGE OF NATURAL GAS ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners is authorized to lease state lands for the underground storage of natural gas.

Statute: 77-3-501 *et seq.*, MCA

Contact: Department of State Lands
Lands Division
Mineral Leasing Bureau

2. Permitting Procedures

A. The board may order a hearing prior to issuance of a lease. A lessee must furnish a bond to indemnify the state against damage or loss.

B. Lease terms may not exceed 20 years. The lessee has a preferential right to renewal.

3. Criteria

The lessee must use all reasonable precautions to prevent waste of oil or gas developed on the land, the entry of water into storage formation, or injury to oil or gas deposits.

SOLID WASTE - HAZARDOUS WASTE

SOLID WASTE DISPOSAL (NON-HAZARDOUS)

1. Types of Activities Regulated

A license is required from the Department of Health and Environmental Sciences for disposal of solid waste (with the exception of one's own non-hazardous waste on one's own land) and for the operation of a solid waste disposal facility. Sites are approved and licensed by the DHES and validated by local health officials. "Solid waste" means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, hazardous wastes (see HAZARDOUS WASTE DISPOSAL, p.77), ashes, sludge from sewage treatment plants, water supply treatment plants or air pollution control facilities, construction and demolition wastes, dead animals, discarded home and industrial appliances, and wood products or byproducts. It does not mean municipal sewage, industrial wastewater effluents, mining wastes regulated by the Department of State Lands, slash and forest debris regulated by the Department of State Lands or marketable wood byproducts.

Statute: Solid Waste Management Act, 75-10-201 *et seq.*, MCA

Rule: ARM 16.14.501 *et seq.*

Contact: Local Health Officer

Department of Health and Environmental Sciences
Environmental Sciences Division
Solid and Hazardous Waste Bureau

2. Application Requirements

A person who wishes to apply for a license to conduct solid waste disposal or to operate a solid waste disposal facility must submit an application for the license to the DHES on forms furnished by the department. The application must include the applicant's name and business address, location of the proposed facility, plan of operation and other information as requested.

Statute: 75-10-221(3), MCA

Rule: ARM 16.14.508, 509

3. Permitting Procedures

A. Time Requirements: The DHES will notify the applicant if additional information is required. If the additional information is not received within 90 days, the application must be resubmitted. The DHES must notify the local health officer within 15 days of receipt of the completed application.

B. A preliminary environmental review (PER) is a necessary part of the solid waste application review process. If indicated by the PER, an environmental impact statement may be prepared.

C. Public Notification, Hearings, Appeal of Denial:

1) The DHES must send one copy of its proposed decision to the applicant and three copies to the local health officer for public posting.

2) Publication of the proposed decision is required in local newspapers.

3) The public has 30 days to submit written comments.

4) The DHES notifies the local health officer of the final decision after the 30-day comment period. The local health officer then has 15 days to validate or refute the decision.

5) If either the DHES or the local health officer denies the application for a license, the applicant has 30 days to appeal the decision.

Statute: 75-10-222 through 224, MCA

Rule: ARM 16.14.511, 514

4. Fees

No fees are required unless an environmental impact statement is prepared. (See MONTANA ENVIRONMENTAL POLICY ACT/ENVIRONMENTAL IMPACT STATEMENTS, p.104)

Statute: 75-1-201 *et seq.*, MCA

5. Additional Information

A. Variances

Any person may apply to the Board of Health and Environmental Sciences for a variance from the rules issued pursuant to the Solid Waste Management Act. The board may grant a variance if it finds that (1) failure to comply with the rules does not result in a danger to public health or safety, or (2) compliance with the rules would produce hardship to the applicant without producing benefits to the public health and safety that outweigh the hardship.

Statute: 75-10-206, MCA

Rule: ARM 16.14.602-608

B. Cesspools, Septic Tanks and Privies
Unless disposed of on the owner's property so as not to create a nuisance or health hazard, effluent from cesspools, septic tanks and privies must be disposed of by licensed cleaners on sites approved by the DHES and local sanitarian.

Statute: 47-41-101 *et seq.*, MCA

Rule: ARM 16.14.801 *et seq.*

HAZARDOUS WASTE DISPOSAL

1. Types of Activities Regulated

A waste meets the definition of hazardous waste if it is included in an EPA list of specific hazardous wastes or demonstrates any of the characteristics of ignitability, corrosiveness, reactivity or toxicity under standard test procedures. All hazardous wastes may only be transmitted, stored, treated or disposed of in a manner consistent with state and federal law. Hazardous wastes must be properly contained and labeled. A permit from the Department of Health and Environmental Sciences is required to construct or operate a hazardous waste management facility. Persons who transport hazardous wastes are required to notify the DHES and to obtain an identification number. Persons who generate hazardous waste (with certain exceptions) are required to maintain an annual generator registration and to pay a registration fee each year, in addition to obtaining an identification number. Substances regulated by the Department of State Lands under the Strip and Underground Mine Reclamation Act (see p.51) are exempt.

Statute: Montana Hazardous Waste Act, 75-10-401 *et seq.*, MCA

Rule: ARM 16.44.101 *et seq.*

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Solid and Hazardous Waste Bureau

2. Application Requirements

Any person who wishes to construct or operate a hazardous waste management facility must apply to the DHES for a permit on forms provided by the department. An application must contain, at a minimum, the applicant's name and business address, the location of the proposed facility, a plan of operation and maintenance, and a description of pertinent site characteristics. A permit may be issued for a period specified by the DHES, and is subject to either renewal or revocation depending on compliance with the permit's provisions. The DHES may assess fees for reviewing a permit application or for modifying or reissuing permits.

Statute: 75-10-405, 406, MCA

Rule: ARM 16.44.106

3. **Permitting Procedures**

A. The DHES may, in the event of an imminent and substantial danger to public health or the environment, issue a temporary emergency permit to any person for treatment, storage or disposal of hazardous waste or to any facility to handle hazardous waste not covered by the existing facility permit. Such emergency permits may be oral or written, may not exceed 90 days in duration and may be terminated by the DHES at any time prior to 90 days.

B. The DHES may grant permits by rule to classes or categories of hazardous waste management facilities where the owner or operator already holds a license or permit from the DHES pursuant to other state environmental statutes or where an interim period exists until final administrative action on a permit application is made.

C. A preliminary environmental review (PER) is a necessary part of the hazardous waste facility application review process. If indicated by the PER, an environmental impact statement may be written prior to a final decision on the permit. (See MONTANA ENVIRONMENTAL POLICY ACT/ENVIRONMENTAL IMPACT STATEMENTS, p.104)

D. If it is determined that an application for a certificate under the Montana Major Facility Siting Act (Title 75, Chapter 20) will result in the generation, transportation, storage or disposal of hazardous wastes, the DHES must conduct its review concurrently with the studies of air and water quality conducted under the provisions of the Montana Major Facility Siting Act. A decision to grant or deny a permit for the treatment, storage or disposal of hazardous wastes is appealable concurrently with and subject to the same procedures established for the appeal of the DHES's air and water quality certification decision under the Montana Major Facility Siting Act. (See MAJOR FACILITY SITING, p.26)

Statute: 75-10-406, 407, MCA

4. **Additional Information**

A. Generators/Transporters
Generators and transporters of hazardous waste must comply with state and federal reporting requirements, including a manifest system for tracking the movement of all hazardous wastes. Transporters who plan to construct and operate a commercial hazardous waste transfer facility must conduct a public hearing in the nearest community to provide information and respond to questions on the proposed facility. A transfer facility must also comply with regulations established by the DHES.

Rule: ARM 16.44.401 *et seq.*, 501 *et seq.*

B. Variances

A person who is a generator or transporter of hazardous wastes or who owns or operates a hazardous waste management facility may apply to the Board of Health and Environmental Sciences for a variance or partial variance from the application of or compliance with any requirement of the Montana Hazardous Waste Act or any rule adopted under it. The board may grant a variance or partial variance if it finds that (1) the applicant's actions or proposed actions regarding generation, transportation, treatment, storage or disposal of hazardous wastes do not constitute a danger to public health or safety or cause substantially adverse environmental effects and (2) the application of or compliance with the requirement or rule would produce unreasonable hardship to the applicant without equal or greater benefits to the public.

Statute: 75-10-408, MCA

RADIOACTIVE WASTE DISPOSAL

1. Types of Activities Regulated

Disposal of "large quantity" radioactive material, byproduct material and special nuclear material is prohibited in Montana. The prohibition includes nuclear fuels, nuclear power plant wastes, and uranium or thorium mill tailings. Certain special use materials (educational, scientific, research, medical, etc.) are exempt from this prohibition.

Statute: Montana Nuclear Regulation Act, 75-3-102, 302, MCA

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Solid and Hazardous Waste Bureau

MOTOR VEHICLE WRECKING FACILITIES

1. Types of Activities Regulated

An annual license from the Department of Health and Environmental Sciences is required to operate a motor vehicle wrecking facility with four or more vehicles. Possession at a singl location of four or more junk vehicles is prima facie evidence that the possessor is operating a motor vehicle wrecking facility.

Statute: 75-10-504, 511 MCA

Rule: ARM 16.14.201, 202

Contact: Department of Health and Environmental Sciences
Solid Waste Management Bureau

2. Application Requirements

An application for a license to operate or maintain a motor vehicle wrecking facility can be obtained from the DHES, and must include certification from the appropriate local government officials that the proposed facility does not violate local zoning ordinances (see ZONING, p.18). Such facilities must be properly shielded from view. The license expires on December 31 of the year issued. A motor vehicle wrecking facility must keep a record of every junk vehicle obtained, and must mail a quarterly report to DHES with the required information.

Statute: 75-10-511, MCA

Rule: ARM 16.14.201

3. Permitting Procedures

A. The DHES may deny, suspend or revoke a motor vehicle wrecking facility's license for reasons of theft, forgery, omission, fraud or rule violation.

B. The DHES's decision to deny, suspend or revoke a license may be appealed to the Board of Health and Environmental Sciences within 30 days of the decision.

Statute: 75-10-511, 514, 515, MCA

Rule: ARM 16.14.201, 204

4. Fees

The DHES requires an annual fee of $50 for a wrecking facility license.

Statute: 75-10-511, 513, MCA

ROADSIDE JUNKYARDS

1. Types of Activities Regulated

The Department of Highways licenses junkyards located within 1,000 feet of an interstate or primary highway right-of-way.

Statute: 75-15-211 through 223, MCA

Rule: ARM 18.6.101 *et seq.*

Contact: Department of Highways
Engineering Division
Right-of-Way Bureau

2. **Criteria**

No license may be granted for a junkyard within 1000 feet of the right-of-way of an interstate or federal primary highway unless it is adequately screened from view from the road way or is located in an area zoned for industrial use, or in an unzoned industrial area.

3. **Fees**

The fee for a junkyard license is $25 per year.

Statute: 75-15-214, MCA

Rule: ARM 18.6.121

SUBDIVISIONS

SUBDIVISION AND PLATTING ACT

1. Types of Activities Regulated

A. All divisions of land that create a parcel less than 20 acres in size must be surveyed and platted in accordance with the Montana Subdivision and Platting Act.

B. Exemptions - Subdivision review requirements and surveying and filing requirements do not apply to divisions resulting from court orders; mortgages; severance of oil, gas or water interests from surface ownership; creation of cemetery lots; reservation of a life estate; or lease or rental for farming and agricultural purposes. The following parcels must be surveyed and filed as a certificate of survey: divisions resulting from relocation of common boundaries; gifts or sales to immediate family members; sales which include a covenant running with the land which provides exclusively for agricultural use of the land; and "occasional sales".

No transfer of title may be filed until a certificate of survey or subdivision plat is filed with the county clerk and recorder. Condominiums and subdivisions for rent or lease must be reviewed but are not required to be surveyed and filed.

C. Evasion Criteria - The legal interpretation of the exemptions, mentioned above, is complex. Many binding legal opinions have been rendered regarding the proper use of the exemptions. Also, the Attorney General and the courts have allowed local government "evasion criteria". Evasion criteria may be adopted by a local government as a method to ensure each proposed exemption does not represent an intent to evade the subdivision laws.

Statute: 76-3-101 *et seq.*, MCA

Rule: ARM 8.94.3001

Contact: Local Government
Local Planning Board

Department of Commerce
Community Development Bureau
Community and Technical Assistance Program

2. Permitting Procedures

A. General Information - The procedure varies slightly, depending on whether or not the local government has a planning board. For those with boards, the review is two-tiered - the initial review is by the planning board, an advisory body, with the final decision

made by the governing body. For those without boards, the governing body is the single reviewing entity. In most jurisdictions, a "subdivision administrator" (planner or sanitarian) will be the developer's initial contact person and liaison.

B. The developer submits his preliminary plat to the appropriate local entity (planning board or government). If a planned unit development is contemplated, the developer must propose a Planned Urban Development designation for his project and receive approval from the government before submitting a preliminary plat.

C. An environmental assessment prepared by the developer must accompany the preliminary plat. The assessment must contain a description of hydrology, topography, vegetation, wildlife, and soils within the proposed subdivision and a community impact report describing the demands the development will make on local services (fire, police, roads, etc.). The assessment may be waived under certain circumstances.

D. The government, after notice and a public hearing, makes its final decision within 60 days of receipt of the preliminary plat (35 days for minor subdivisions with five or fewer parcels), unless an extension is agreed to by the developer.

E. In general, the developer must donate a portion of the subdivided land for public parks. A cash contribution may be accepted in lieu of parkland.

F. The preliminary plat may be approved for one to three years. The government may require a bond to guarantee completion of improvements which are not proposed to be installed prior to final plat approval.

G. The final plat will be approved by the governing body if it conforms with the conditions imposed on the preliminary plat. A final plat may not be filed with the county clerk until the State Department of Health has lifted all sanitary restrictions. (See SANITATION IN SUBDIVISIONS p.82)

3. Criteria

The basis for the government's decision is whether the subdivision would be in the public interest. This determination must be made by issuing findings of fact that consider the need for the project, public opinion, the subdivision's effect on agriculture, local services, taxation, the natural environment, wildlife, and public health and safety. The government may require the subdivision to comply with its master plan, if one has been adopted. In addition, the developer must comply with the local government's construction design standards (road widths, easement location, utility standards, etc.).

Statute: 76-3-608, MCA

4. Additional Information

Expedited review is available in certain situations. Summary review (minor subdivision review) may be used if the subdivision contains five or fewer lots, there is proper access to all lots and no park has been dedicated. If the subdivision complies with a master plan, capital improvements plan and zoning the subdivision is deemed to be in the public interest and is exempt from the environmental assessment requirement.

SANITATION IN SUBDIVISIONS

1. Types of Activities Regulated

Condominiums, mobile home parks, recreational vehicle parks and all divisions of land which create a parcel of less than 20 acres are subject to sanitary review. A subdivision plat cannot be filed with the county clerk, nor can structures be built or occupied until sanitary restrictions relating to water supply, sewage and solid waste disposal are lifted by the Department of Health and Environmental Sciences. Review of minor subdivisions of five or fewer parcels is delegated to local officials. Subdivisions within master planning areas and for which municipal water and waste disposal services will be provided are not subject to sanitary restrictions.

Statute: Sanitation in Subdivisions Act, 76-4-101 *et seq.*, MCA

Rule: ARM 16.16.101 *et seq.*; local regulations

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau

Local government

2. Application Requirements

An applicant who wishes to subdivide land must either complete the joint subdivision application form for review by local and Department of Health officials or submit an ES915 application form for those subdivisions exempt from local planning review. A preliminary plat or final plat, maps showing proposed public water and sewage systems, environmental assessment, and a subdivision approval statement from the local health officer are also required.

Statute: 76-3-504, 603, 76-4-104, 125, MCA

Rule: ARM 16.16.102-104

3. Permitting Procedures

A. Upon receipt of a subdivision application, the Department of Health and Environmental Sciences has 60 days for final action. If an environmental impact statement is required, final action must be taken within 120 days. (See MONTANA ENVIRONMENTAL POLICY ACT/ENVIRONMENTAL IMPACT STATEMENTS, p.104)

B. The DHES may enter into agreements with local governments regarding review of water supply, sewage and solid waste disposal facilities for subdivisions of five or fewer parcels. Local government officials have 50 days to recommend action on the application to the DHES. The DHES then has 10 days to take final action.

4. **Criteria**

The DHES's rules set standards and procedures relating to size of lots, topography, geology, hydrology, type of facilities proposed and other factors affecting public health and the quality of water for uses relating to agriculture, industry, recreation and wildlife. There must be adequate water supply, drainage, sewage and solid waste disposal systems. The DHES will issue a certificate of approval when it is satisfied that water pollution will not occur, the water supply is of adequate quantity and acceptable quality and solid waste disposal is in accordance with state laws and regulations.

5. **Fees**

A schedule of fees, depending on the complexity of the project, is set out in the rules. Fees may be up to $48 per parcel or condominium unit.

Statute: 76-4-105, MCA

Rule: ARM 16.16.801 *et seq.*

6. **Additional Information**

The denial of plat certifications for a subdivision may be appealed to the Board of Health and Environmental Sciences.

Statute: 76-4-104, 125, MCA

Rule: ARM 16.16.106, 108

SALE OF SUBDIVIDED LAND

1. **Types of Activities Regulated**

Subdivisions of five or more parcels, of which one parcel is less than five acres in size, that are to be offered for sale outside of Montana, must be registered with the Board of Realty Regulation. A notice of intention must be filed and annual reports are required. In addition, if the subdivision involves 50 or more lots, not all of which are five or more acres, the

developer must register the subdivision with the U.S. Department of Housing and Urban Development.

Statute: 76-4-101 *et seq.*, MCA
Interstate Land Sales Act, 15 USC 1701 *et seq.*

Rule: ARM 40.56.410

Contact: Department of Commerce
Board of Real Estate

U.S. Department of Housing and Urban Development
Office of Interstate Land Sales

2. **Application Requirements**

A. Prior to the time when subdivided lands are to be offered for sale or lease outside Montana, the owner, his or her agent, or the subdivider must notify the board in writing of his or her intention to sell or lease. The notice of intention must contain the following information:

1) the name and address of the owner;

2) the name and address of the subdivider;

3) the legal description and area of lands, together with a map showing the layout proposed and relation to existing streets or roads;

4) a true statement of the conditions of the title to the land, particularly including all encumbrances thereon;

5) a true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any and all forms of conveyance intended to be used;

6) a true statement of the provision for legal access, sewage disposal and public utilities in the proposed subdivision, including water, electricity, gas and telephone facilities;

7) copies of any advertising, information, promotion brochures or similar material depicting the property that might cause or tend to induce purchase of the property or an interest therein, and

8) other information as the owner, his or her agent, or the subdivider may desire to submit.

B. The board may investigate any subdivision being offered for sale or lease.

C. It is unlawful for any person to incorporate in any advertising material or use for any advertising purposes the board's results or findings.

Statute: 76-4-1104, 1109, 1114, MCA

3. **Fees**

   A. A filing fee of $50 is required to file a notice of intention.

   B. If the Board of Realty Regulation requires additional information on the proposed sale, the corresponding questionnaire requires a filing fee of $100.

   Statute: 76-4-1105, 1107, MCA

UTILITIES

UTILITY REGULATION

The Public Service Commission has general authority over public utilities (i.e., organizations which provide heat, street or railway service, light, power, water, telegraph or telephone service to the public). The PSC regulates rates and services and issues certificates of public convenience and necessity to motor carriers.

Utilities owned or controlled by a municipality, town or village or by a county or city-county water or sewer district are excluded from PSC jurisdiction. However, if a local government utility is a public utility, its operation is subject to PSC regulation. Rates and services for such systems are determined by the local government or district.

Statute: 69-3-101 *et seq.*, 69-7-101, 69-12-201, MCA

Rule: ARM 38.1.101, 38.5.701, 702

Contact: Department of Public Service Regulation
Utilities Division

Municipal government

City or City-County water or sewer district

PIPELINES - MAINS - UTILITY LINES

1. Types of Activities Regulated

The right to construct and operate pipelines for the transportation of crude petroleum, coal or the products thereof may be obtained by filing with the Public Service Commission a written agreement to become a common carrier and subject to all of the attendant duties and obligations. Construction of gas, water and other mains within city limits is regulated and approved by the city or town council. Boards of county commissioners have similar authority outside of municipalities. City or town councils may permit extension of utility lines outside of city limits. All plans for construction or extension of water or sewer lines must be approved by the Department of

Halth and Environmental Sciences (see SEWER SYSTEMS, p.91 and PUBLIC WATER SUPPLY, p.90).

Statute: 69-13-103, 7-13-2101, 4101, 4311, 4312, 7-3-4452, MCA

Rule: ARM 16.20.201 *et seq.*, 16.20.401 *et seq.*,

Contact: City or Town Council

Board of County Commissioners

Department of Public Service Regulation
Utilities Division

Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau

OVERHEAD LINES

1. Types of Activities Regulated

The city or town council may regulate erection of poles and cables within city limits. The owner of agricultural lands may petition the district court for permission to relocate overhead lines for the purpose of installing an agricultural improvement. Persons moving buildings, equipment or other structures which will require the moving of overhead lines must give the person responsible for operating the lines 10 days notice or must pay half the reasonable cost of raising or cutting the wires or of moving the poles.

Statute: 69-4-401 *et seq.*, 69-4-601, 602, 7-13-4106, MCA

Contact: City or Town Council

Operators of lines

HIGHWAY UTILITY EASEMENTS

1. Types of Activities Regulated

Utility facilities used to transport or distribute hydrocarbons, electric power, energy communication signals, water and sewage are authorized to occupy highway rights-of-way if they conform to certain standard as approved by the Department of Highways (see also HIGHWAY ENCROACHMENTS - EASEMENTS, p.26). All other facilities are considered privately owned and must receive a permit from the DOH before being constructed in a highway

right of-way. City councils and boards of county commissioners grant similar approval along city streets and county roads, respectively.

Statute: 7-13-2101, 4101, MCA

Rule: ARM 18.7.201 *et seq.*, 18.7.221-241

Contact: City or Town Council

Board of County Commissioners

Department of Highways
Area Maintenance Bureau

2. **Permitting Procedures**

A. The utility must prepare and submit a notice of its proposed occupancy to the appropriate division office of the Department of Highways. The notice must be submitted in triplicate, accompanied by utility plans showing the locations of the proposed facilities with respect to the highway.

B. The supervisor or chief will review the occupancy as proposed by the utility. If the proposal conforms with certain standards, as specified by rule, the supervisor must sign it, and if not, the supervisor must specify in writing the reasons the proposal does not comply. Standards include preserving the natural environment as much as possible and maintaining the facility and avoiding hazards or conflicts between the highway and the facility.

C. The utility may resubmit its proposal after making the necessary changes to comply with the standards.

Rule: ARM 18.7.232

MAJOR FACILITY SITING

1. **Types of Activities Regulated**

Certification by the Board of Natural Resources and Conservation and the Department or Board of Health and Environmental Sciences is required for construction of major utilities (power generation plants, transmission lines, pipelines, etc.). For details and agency contacts, see p.26.

Statute: 75-20-101 *et seq.*, MCA

Rule: ARM 36.7.1201 *et seq.*

IMPROVEMENT AND UTILITY DISTRICTS

1. **Types of Activities Regulated**

A number of means of funding are available to cities and counties for the construction of capital improvements such as streets, malls, lighting, parking, water and sewer systems, etc. Provisions vary, but typically, an improvement

district may be established by the local government. In some cases, a petition by residents of the district is required. A board of directors may be elected or appointed, or the local government itself may be in charge. The district may sell bonds to finance the improvements, and an assessment is levied on benefitted property to service the bond debt and to operate and maintain the improvements. In some cases, user fees may be assessed. Potential developers should check with local authorities to determine applicable requirements.

Statute:
Special Improvement Districts:
7-12-2101 *et seq.*, MCA
Rural Improvement Districts:
7-12-4101 *et seq.*, MCA
Lighting Districts:
7-12-2201 *et seq.*, 7-12-4301 *et seq.*, MCA
Street Parking:
7-12-4501 *et seq.*, MCA
Metropolitan Sanitary and Sewer Districts:
7-13-101 *et seq.*, MCA
County Water/Sewer Districts:
7-13-2201 *et seq.*, MCA
Public Sewer Systems:
7-13-4201 *et seq.*, MCA
Municipal Sewage/Water Systems:
7-13-4301 *et seq.*, MCA
Municipal Revenue Bonds:
7-7-4401 *et seq.*, MCA
Industrial Revenue Bonds:
90-5-101 *et seq.*, MCA

WATER

If the project requires water use, a water supply, or discharge of wastes into state waters, the following regulations may apply. (See also, IMPROVEMENT AND UTILITY DISTRICTS, p.88)

PUBLIC WATER SUPPLY

1. Types of Activities Regulated

A water system serving ten or more families or 25 or more persons for 60 days out of the calendar year must be approved by th Department of Health and Environmental Sciences. Plans and specifications for public water supply wells must be approved, as well as plans for construction, alteration or extensions of any water system or treatment facilities. Private water supply systems for food and lodging establishments licensed by the DHES also must be approved. Operators in charge of public water systems and treatment facilities must be licensed by the DHES.

Statute: 75-6-101 *et seq.*, MCA

Rule: ARM 16.20.401-405, 1601

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau

2. Application Requirements

A. Prior to commencing construction, alteration or extension of a public water supply, the applicant must submit an engineering report along with the necessary plans and specifications to the DHES for review and written approval.

B. The engineering report, plans and specifications for a public water supply must be prepared and designed by a professional engineer according to specific engineering criteria.

C. The applicant must identify the legal entity responsi ble for the ownership, operation and maintenance of the public water supply.

D. If construction, alteration or extension of the public water supply has not commenced within two years after approval, the applicant must resubmit all requirements in A, B, and C above.

E. The proposed public water supply must comply with the Montana Water Quality Act (75-5-101 *et seq.*, MCA). (See WATER POLLUTION: DISCHARGE PERMITS, p.92)

F. Any person who wishes to drill a well in the state in order to furnish water for public consumption or use must register with the DHES.

G. Within 90 days after the construction, alteration or extension of the public water supply, the project engineer must certify to the DHES that the required work was completed according to the approved plans and specifications.

Rule: ARM 16.20.401, 405

SEWER SYSTEMS

1. Types of Activities Regulated

Approval from the Water Quality Bureau, Department of Health and Environmental Sciences, is required to construct, alter or extend a public sewer system serving 10 or more families or 25 or more persons for at least 60 days out of the calendar year. Operators in charge of public sewer systems must be licensed by the DHES.

Statute: 75-6-101 *et seq.*, MCA

Rule: ARM 16.20.401, 402

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau

Board of Water and Wastewater Operators

2. Application Requirements

A. Prior to commencing construction, alteration or extension of a public sewer system, the applicant must submit an engineering report along with the necessary plans and specifications to the DHES for review and written approval.

B. The engineering report, plans and specifications for a public sewer system must be prepared and designed by a professional engineer according to specific engineering criteria.

C. The applicant must identify the legal entity responsible for the ownership, operation and maintenance of the public sewer system.

D. If construction, alteration or extension of the public sewer system has not commenced within two years after approval, the applicant must resubmit all requirements in A, B and C above.

E. The proposed public sewer system must comply with the Montana Water Quality Act (75-5-101 *et seq.*).

F. Within 90 days after the construction, alteration or extension of the public sewer system, the project engineer must certify to the DHES that the required work was completed according to the approved plans and specifications.

Rule: ARM 16.20.401

WATER POLLUTION: DISCHARGE PERMITS

1. Types of Activities Regulated

A permit from the Department of Health and Environmental Sciences is required to construct, modify or operate a disposal system or to construct or use any outlet for discharge of sewage, industrial or other wastes into state surface or groundwaters.
The DHES may authorize short-term exemptions from certain water quality standards for necessary short-term construction or hydraulic projects which may have short-term water quality impacts. Plans and specifications for tailings ponds, leaching pads and holding facilities must be submitted to the DHES for review and approval at least 180 days before commencement of operations.

Statute: Montana Water Quality Act, 75-5-101 *et seq.*, MCA

Rule: ARM 16.20.633, 16.20.901 *et seq.*, 16.20.1001 *et seq.*

Contact: Department of Health and Environmental Sciences
Environmental Sciences Division
Water Quality Bureau

2. Application Requirements

The applicant for a water pollution discharge permit must file an application for a Montana Pollution Discharge Elimination System (MPDES) permit or a Montana Groundwater Pollution Control System (MGWPCS) permit no less than 180 days prior to the operation of a point source. A National Pollution Discharge Elimination System Permit (contact the federal Environmental Protection Agency) or a Refuse Act permit (contact the U.S. Army Corps of Engineers) also fulfill these requirements.

Application information must include plans and specifications, site plans, descriptions of adjacent state waters, soil conditions, groundwater characteristics, process and waste flow diagrams, and volume and nature of projected discharges. Application for short-term exemption from water quality standards must be made on forms provided by the DHES.

Statute: 75-5-401 *et seq.*, MCA

Rule: ARM 16.20.904 and 16.20.1013

3. Permitting Procedures

A. Upon receipt of the permit application, the DHES must make a tentative determination with respect to issuance or denial of an MPDES permit. The DHES is then required to issue a public notice to inform interested persons of the proposed discharge and of the tentative determination.

B. At least 30 days are provided for written comments from the public regarding the application.

C. The applicant, any affected agency, state, or country, the regional administrator of the Environmental Protection Agency, or any

interested person or agency may request a public hearing on the application. The hearing must be held in the geographical area of the proposed discharge.

D. If the DHES denies the discharge permit, the applicant may appeal the decision to the Board of Health and Environmental Sciences. The hearing must be held within 30 days of the receipt of the written request.

E. All permits are issued for a fixed term, not to exceed five years.

Statute: 75-5-403, MCA

Rule: ARM 16.20.904-907 and 16.20.1014-1020

4. **Criteria**

All discharges of pollutants into state waters authorized by an MPDES permit must be consistent with the conditions of the permit. The discharge of pollutants into state waters in excess of the MPDES permit's restrictions constitutes a violation of the permit. State waters must be free of discharges that settle to form sludge deposits, create floating debris, produce odors, create toxic concentrations harmful to human, animal, plant and aquatic life, or create conditions capable of producing undesirable aquatic life.

Rule: ARM 16.20.633, 907, 1002, 1003, 1015

5. **Additional Information**

A. Non-degradation
If effluent limitations or other conditions are imposed on a discharge permit in order to maintain water quality at levels better than the applicable water quality tandards as directed by the state's non-degradation policy, the permittee may, within 30 days, petition the Board of Health for an exemption from such non-degradation requirements. The board will evaluate the petition and may require an environmental impact statement if needed to comply with the Montana Environmental Policy Act. The board's decision must be made following a public hearing.

Statute: 75-5-303, MCA

Rule: ARM 16.20.701 *et seq.*

B. General Permits
Certain specified categories of discharge may be authorized by a summary procedure under a general permit authorization.

Rule: ARM 16.20.914

WATER POLLUTION: FEDERAL FACILITIES

1. Types of Activities Regulated

Federal permitting authority is involved for federal facilities, for projects requiring federal permits or licenses under other regulatory authority and for activities on Indian reservations. Minimum discharge limits are established by the Environmental Protection Agency, and these apply to all discharges except where greater treatment is needed to meet water quality stream standards. In accordance with a 1981 delegation agreement transferring such authority to the state, all other federal facilities which involve a discharge of waste to surface waters must comply with the preceding section on discharge permits.

Statute: Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*

Contact: U.S. Environmental Protection Agency
Montana Office, Helena

SURFACE WATER APPROPRIATIONS - DIVERSIONS

1. Types of Activities Regulated

State waters may be appropriated for "beneficial uses". These uses include, but are not limited to, agriculture, domestic use, fish and wildlife, mining, industrial activity, municipal supply, power generation, and recreation. A permit to appropriate surface water for beneficial uses is required from the Department of Natural Resources and Conservation prior to commencing any project that proposes to use unappropriated water. A person who intends to appropriate water by means of a reservoir must also have a permit. Application forms are available from the DNRC central office and the nine local Water Rights Bureau Field Offices, or the county clerk and recorder.

A change in place of use, place of diversion, place of storage, or purpose of use of an appropriated water right also requires approval by the DNRC. A conveyance of a water right must be recorded with the DNRC by the filing of a water right transfer certificate.

State, local and federal governments may apply for reservations of water for future beneficial uses. The application must be filed with the Board of Natural Resources and Conservation. The board has the authority to grant, deny, or modify the reservation requested in the application.

A permit is not required for construction of a pit or reservoir used for watering livestock if: 1) the pit or reservoir would contain less than 15 acre-feet of water, 2) the impoundment is constructed on and will be accessible to a parcel of land that is owned or controlled by the applicant and that is at least 40 acres in size, and 3) the appropriation is less than 30 acre-feet per year and is from a source other than a perennial flowing

stream. However, an application for a permit must be requested within 60 days after construction of the pit or reservoir.

Statute: 85-2-301, 302, 306, 316, 402 and 424, MCA

Rule: ARM 36.12.101-105

Contact: County Clerk and Recorder for forms

Department of Natural Resources and Conservation
Water Resources Division, Water Rights Bureau Office in Helena or local Water Rights Bureau Field Offices located in Helena, Missoula, Kalispell, Havre, Glasgow, Billings, Lewistown, Bozeman and Miles City.

2. Application Requirements

An application for a beneficial water use permit or a change in an existing water right must be made on forms supplied by the DNRC. A defective application does not lose its filing priority if it is corrected and refiled within 30 days or as the DNRC may allow, up to three months. An application not corrected within three months is by law terminated. An application for a reservation (which can be made only by state, local or federal governments) is filed with the DNRC, but acted upon by the Board of Natural Resources and Conservation.

Statute: 85-2-301 *et seq.*, MCA

Rule: ARM 36.12.102 and 36.16.103-106

3. Permitting Procedures

A. All applicants should plan ahead and expect this process to take up to six months. The application may need to be advertised and submitted to an administrative hearing if objections are received.

B. The DNRC must prepare a notice on the application for a permit and publish it once in an area newspaper unless the DNRC finds from available information that the proposed appropriation will not adversely affect the rights of other persons.

C. Persons may file written objections to the permit application within a time established by the DNRC not less than 15 or more than 60 days after the date of publication. The objection must include the name and address of the objector, facts tending to show that there are no unappropriated waters in the proposed source, that the proposed means of appropriation are inadequate, that the property, water rights, or interests of the objector would be adversely affected by the proposed appropriation, that the proposed use of water is not a beneficial use, or that the proposed use will interfere unreasonably with other planned uses or developments for which a permit has been issued or for which water has been reserved.

D. If the DNRC determines that objections to an application are valid, it will hold a public hearing within 60 days from the date set for filing objections, unless an agreement is reached by the parties.

E. The DNRC will normally issue a decision on the permit within 120 days after publication of the notice if no objections have been received, and within 180 days if a hearing is held or objections have been received. These deadlines may be extended up to 60 days if an EIS is required. If no objection to the application is filed but the DNRC feels that the application should be approved in a modified form or denied, it must serve a statement of opinion upon the applicant, along with notice that the applicant may obtain a hearing by filing a request within 30 days.

F. The DNRC may issue a provisional permit for less than the amount of water requested, but in no case may it issue a permit for more water than requested or that can be beneficially used. The DNRC must state the time limits for commencement of the appropriation work, completion of construction, and actual application of the water to the proposed beneficial use.

G. Water permits are provisional until all claims of existing water rights in the source of supply have been adjudicated in state water court. Contact the DNRC or local clerk of court for adjudication procedures.

H. A change authorization simply authorizes a change of an existing water right as to place of use, place of diversion, place of storage or purpose of use.

I. If a hearing is held on objections to an application, a proposed order will be prepared and sent to all parties of record in the case. Any party who disagrees with the order may file an objection and request an oral argument hearing before a final order is issued. The final order may be appealed by the applicant or objector to the district court within 30 days after receiving notice of the decision.

Statute: 85-2-307 through 315, 402, MCA
See also, the Montana Administrative Procedure Act, 2-4-101 *et seq.*, MCA

Rule: ARM 36.12.201-233, 36.16.107

4. Fees

The fee schedule established by rule is with some exceptions, based on the volume of water requested for appropriation. Some applications have a flat fee. Fees are changed to cover some direct costs of the service, but may not cover any costs for employee salaries.

Statute: 85-2-113, MCA

Rule: ARM 36.12.103

5. **Criteria**

The DNRC must base its decision for issuance of a permit on the criteria found in 85-2-311, MCA, and for changes, in 85-2-402, MCA. All permits and change authorizations are issued subject to prior existing water rights and the final determination of those rights. Other conditions may be imposed to protect the rights of other water right appropriators on a case-by-case basis. Temporary and interim permits may also be issued with specific conditions.

Statute: 85-2-311, 312 and 402, MCA

Rule: ARM 36.12.104

6. **Additional Information**

A. Reservations

The state or any political subdivision or the federal government may apply to the Board of Natural Resources and Conservation to reserve waters for existing or future beneficial uses. Individuals may not make this application. Applications are processed and investigated by the DNRC. The Board must make findings concerning the purpose and need for the water reservation, the amount of water necessary and whether the proposed use is in the public interest.

Statute: 82-2-316 and 331, MCA

Rule: ARM 36.12.102 and 103, 36.16.101-118

B. Highly Appropriated Basins

The legislature may by law preclude permit applications, or the DNRC may by rule reject permit applicaions or modify permits issued in a highly appropriated basin or subbasin. A rule may only be adopted by the DNRC upon petition by at least 25 percent or 10, whichever is less, of the users of water from the source of supply. The petition must allege that no unappropriated waters exist in the source of supply and that further uses will interfere unreasonably with other planned uses or developments for which a permit has been issued or for which water has been reserved.

Statute: 85-2-319, MCA

GROUNDWATER APPROPRIATIONS

1. **Types of Activities Regulated**

Any groundwater appropriation that will exceed 100 gallons per minute for a beneficial use (see SURFACE WATER APPROPRIATIONS-DIVERSIONS, p.94 for definition), or is inside an established controlled groundwater area, must be permitted by DNRC before construction can commence.

No application for a permit to appropriate groundwater in excess of 3,000 acre-feet per year can be granted by DNRC without legislative approval.

Statute: 85-2-302, 306, 317 and 508, MCA

Rule: ARM 36.12.102 and 103

Contact: Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

2. **Application Requirements**

A. Any groundwater appropriation exceeding 100 gallons per minute or within an established controlled groundwater area must obtain a permit prior to commencing any construction. (See SURFACE WATER APPROPRIATIONS - DIVERSIONS, p.94, for permit application procedures)

B. A person appropriating less than 100 gallons per minute is not required to obtain a permit before commencing a project, but within 60 days after the well is completed and the water applied to a beneficial use he or she must file a Notice of Completion form with DNRC so a Certificate of Water Right can be issued. The water well driller must file a Well Log Report on the water well with DNRC within 60 days after completion of the well.

C. A permit appication in excess of 3,000 acre-feet of groundwater per year must be filed with DNRC and the Montana Legislature must approve the appropriation (see 85-2-317, MCA).

Statute: 85-2-302, 306, 317, and 516, MCA

Rule: ARM 36.12.102 and 103

WATER WELLS

1. **Types of Activities Regulated**

In general, a permit is not required for appropriations of water by means of a well or developed spring that are less than 100 gallons per minute for any type of use. However, notice of completion of the well must be filed with the Department of Natural Resources and Conservation within 60 days. Defective notices are returned to the well owners and must be resubmitted within a time specified by the DNRC in order to retain priority.

All wells must be drilled by a contractor or driller licensed by the Board of Water Well contractors or by a person who has obtained a permit from the board to drill a well on his or her own agricultural property for private use.

Statute: 37-43-101 *et seq.*, MCA

Rule: ARM Chapter 36, Title 21

Contact: County Clerk and Recorder

Board of Water Well Contractors

Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

2. **Application Requirements**

A. A person who might engage in the drilling, making, construction, alteration, or rehabilitation of one or more water or monitoring wells for underground water in this state must file an application with the Board of Water Well Contractors for a license. The application must include verification of one or more years in the water well or monitoring field.

B. Permits for individuals drilling wells on their own property must show their interest in the land on which the well will be constructed and the method of construction to be used. Permits are often issued the same day if the application is complete.

3. **Fees**

A. There is a flat fee of $10 for filing a Notice of Completion on a well of less than 100 gallons per minute (see SURFACE WATER APPROPRIATIONS - DIVERSIONS, p.94 for fees required on permit applications).

B. There is no fee for filing the Well Log Report form.

C. The application fee for a water well contractor's license is $250, renewal is $125, and the license is valid from July 1 to June 30.

D. The application fee for a water well driller's license is $200, renewal is $90, and the license is valid from July 1 to June 30.

E. The application fee for an monitoring well constructor's license is $110.

F. There is no fee for drilling a well on ones own property.

G. The renewal fee for a contractor's license is $125, a driller's license renewal is $90. Both licenses are valid from July 1 through June 30.

Rule: ARM 36.12.103

4. Permitting Procedures

A. Water well applications are reviewed and, if complete, can be approved on the date received. The examination is graded within three days. Driller's licenses are issued when the exam is passed. Entire application-review periods can be as short as one day, but average one or two weeks.

B. Contractor's licenses are not issued until bonds are submitted, and take an average of two weeks to be processed.

C. Monitoring well constructor applications are reviewed at regularly scheduled board meetings. The National Water Well Association monitoring exam is given and graded by the NWWA. Grading takes about two months.

DAMS AND RESERVOIRS

1. Types of Activities Regulated

The Federal Energy Regulatory Commission licenses and inspects hydropower dams. The Army Corps of Engineers should also be contacted for proposed dams on navigable waters. If the proposed dam facility would be on a stream located on state-owned lands, a lease or license must be obtained from the Board of Land Commissioners.

A person desiring to build a dam may need to contact the DNRC to acquire the necessary water permit or change authorization.

A dam owner must also obtain a dam safety construction permit from the DNRC prior to constructing any new high-hazard dam or reservoir that impounds at least 50 acre-feet, enlarges or removes an existing high-hazard dam or reservoir impounding at least 50 acre-feet, or extensively repairs or alters an existing high hazard dam or reservoir impounding 50 acre-feet or more. In addition, a dam safety operation permit needs to be obtained before operating a new high-hazard dam and, after October 1, 1990, before operating an existing high-hazard dam. Upon complaint, the Montana Department of Natural Resources and Conservation inspects and approves any dam on state waters.

Statute: Federal Power Act, 16 USC 791a *et seq.*
River and Harbors Act, 33 USC 401 *et seq.*
Montana Dam Safety Act, 85-15-101 *et seq.*, MCA
Title 85, Chapter 2, Parts 3 and 4, MCA
77-4-201 through 210, MCA

Contact: Department of Natural Resources and Conservation
Water Resources Division
Engineering Bureau

Army Corps of Engineers
District Engineer

Federal Energy Regulatory Commission

2. **Application Requirements**

   A. For hazard classification, the dam owner must apply for a determination to the DNRC.

   B. For a construction permit, the dam owner must submit an application form, construction plans, specifications, and a design report to the DNRC.

   C. For an operating permit, the dam owner must submit an application form, inspection report, and operation plan to the DNRC.

3. **Fees**

There is a $125 application fee for hazard classification. There are no application fees for either the construction or operation permit.

4. **Permitting Procedures**

The DNRC must issue or deny a construction permit for a high hazard dam within 60 days of receiving the application. To operate a high-hazard dam, an operating permit must be received from the DNRC. The operating permit requires a construction permit and an approved operation plan. Within 60 days and upon completion of the review to ensure a safely built dam, a construction permit is issued or denied by DNRC. Operation permits are issued by DNRC upon review of the application.

WEATHER MODIFICATION

1. Types of Activities Regulated

A license and permit from the Board of Natural Resources and Conservation are required to engage in weather modification and control activities.

Statute: 85-3-101 through 303, MCA

Rule: ARM 36.20.101 through 307

Contact: Department of Natural Resources and Conservation
Water Resources Division

2. Application Requirements

A license is required of any person wishing to engage in weather modification activities within Montana. Applicants for such licenses must demonstrate competence in the field of meteorology. Application forms for weather modification permits are available upon requet from the Water Resources Division of DNRC. A license expires at the end of the calendar year in which it is issued; at the expiration of the period, qualified licensees may apply for, and be issued, a renewal.

Persons holding valid weather modification licenses must apply for, and be issued, permits before they engage in actual weather modification and control activities. Separate permits are required for each operation. An applicant for a permit to conduct weather modification activities must file a notice of intention with the DNRC. The notice must include the applicant's name, address and information on the operations, the area to be affected and the materials and methods to be used. The DNRC must publish the notice at least once a week for two consecutive weeks in a newspaper in the affected county. A public hearing may be required. License and permit forms are available from the DNRC.

Statute: 85-3-201, 203, 204, 206 through 210, MCA.

3. Fees

A. The fee for a license or renewal to conduct weather modification is $100.

B. The fee for a permit to conduct weather modifications operations is one percent of the estimated cost of the operation.

C. The applicant must reimburse the DNRC for the costs of publishing the notice of intent. The applicant may, at the

discretion of the DNRC, be assessed for the costs associated with holding a public hearing on a permit application.

Statute: 85-3-205, 210(2), 212, MCA

4. Permitting Procedures

Information provided in the license applications is corroborated by the DNRC. Licenses are then awarded or not awarded by the board, based upon the statutory criteria.

Permit applications must be submitted at least ninety days prior to the date the weather modification operation is scheduled to begin. If the operation is new, the applicant is advised to consult with the DNRC at least six months before the operation is scheduled to begin. Once received, the application is evaluated, and an environmental analysis may be prepared by the DNRC. A hearing may be required at the applicant's expense. The DNRC then makes recommendations to the board for approval, approval with conditions, or rejection. The board makes its decision based on the criteria described below.

5. Criteria

Competence in the field of weather modification and meteorology must be demonstrated by the applicants' experience, education, or certification by a nationally recognized weather modification professional society, agency, or organization. A minimum of one year of experience in management and control of a weather modification operation is required.

Approval criteria for permit applications are:

A. that the person in charge be licensed to conduct weather modification activities in Montana;
B. that the project has been properly noticed;
C. that the project has been insured in a manner that would protect victims of any unintended weather modification results;
D. that the fees have been or will be paid, in accordance with the statute; and
E. that the project is for the general welfare and public good because:

    1) it is based on a sound scientific basis, and plans have been made for its effective monitoring and control;
    2) the project has the potential of producing benefits;
    3) the project will not result in serious adverse impacts; and
    4) the anticipated benefits outweigh the potential adverse impacts .

6. Additional Information

On petition of county residents, a county may establish a weather modification authority to engage in weather modification activities.

Statute: 85-3-401 *et seq.*, MCA

MONTANA ENVIRONMENTAL POLICY ACT/ENVIRONMENTAL IMPACT STATEMENTS

1. Types of Activities Regulated

Before any major action significantly affecting the quality of the environment is taken, a state agency must prepare an environmental impact statement (EIS) discussing the environmental impacts of the proposed action. The responsible state official must consult with and obtain the comments of any state agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of the EIS and the comments and views of the appropriate state, federal and local agencies which are authorized to develop and enforce environmental standards must be made available to the Governor, the Environmental Quality Council and the public and must accompany the proposal through the existing agency review processes. Alternatives to the proposal, irretrievable commitments of resources, and the relationship between short-term uses of the environment and long-term productivity must be discussed. The EIS requirement applies to issuance of state permits, licenses and approvals for private actions which will have significant environmental impacts.

Statute: 75-1-101 *et seq.*, MCA

Rule: Agriculture:
ARM 4.2.301 *et seq.*
Fish, Wildlife and Parks:
ARM 12.2.401 *et seq.*
Health and Environmental Sciences:
ARM 16.2.601 *et seq.*
Highways:
ARM 18.2.201 *et seq.*
State Lands:
ARM 26.2.601 *et seq.*
Livestock:
ARM 32.2.201 *et seq.*
Natural Resources:
ARM 36.2.501 *et seq.*

Contact: Specific Agency

Environmental Quality Council

2. Permitting Procedures

A. An agency may prepare a preliminary environmental review (PER) to determine whether an EIS is necessary. If the need for an EIS is clear, the PER step may be by-passed.

B. If the PER indicates no potential significant environmental impact, no EIS need be prepared and the agency may proceed with the proposed action.

C. If an EIS is necessary, the agency must prepare a draft EIS which is circulated to other agencies and to the public for comment. At least 30 days must be allowed for comment, with a 30 day extension available if requested by a person for good cause. The applicant has the opportunity to respond to comments.

D. A public hearing may be held after publication of the draft EIS. The agency is required to hold a hearing if a certain level of citizen interest (specified by rule) is demonstrated.

E. A final EIS will be prepared if necessary, incorporating responses to comments on the draft and comments received at the hearing if one was held.

F. Final action on a permit may not be taken sooner than 45 days after publication of the draft EIS, nor sooner than 15 days after publication of the final EIS.

3. Fees

If the cost of preparing the EIS will exceed $2500 the agency may assess a fee from the applicant to pay the costs of EIS preparation. The agency must notify the applicant within 30 days after receipt of the complete application if a fee will be required. A fee schedule based on the cost of the proposed project is set forth in the statute.

Statute: 75-1-203, MCA

4. Additional Information

When a single project requires permits from two or more agencies, a lead agency will be designated to collect the EIS fee and to coordinate preparation of the document.

MONTANA ADMINISTRATIVE PROCEDURE ACT

1. Types of Activities Regulated

Whenever a license or permit decision is required by statute to be preceded by a hearing, the contested case provisions of the Administrative Procedure Act apply.

Statute: 2-4-601 *et seq.*, MCA

Rule: ARM 1.3.101 *et seq.*

2. Permitting Procedures

All parties must be afforded an opportunity for hearing after reasonable notice. Parties are entitled to be represented by an attorney. If formal hearing procedures are followed, the rules of discovery and evidence, right to cross-examine witnesses, rules of privilege, etc., will apply except as otherwise provided by the statute. If all parties agree, less formal procedures may be followed. A hearing officer may be appointed to make findings and recommendations to the agency decision makers. A transcript of the hearing will be made available upon request. Within 30 days after the agency's final decision, an aggrieved party may appeal the decision to district court.

APPENDIX 1: MONTANA STATE AGENCIES

DEPARTMENT OF AGRICULTURE

Director, Keith Kelly
Agriculture & Livestock Building
Sixth and Roberts
Helena, MT 59620
(406)444-3144

ENVIRONMENTAL MANAGEMENT DIVISION

Administrator, Gary Gingery
(406)444-2944

Pesticides registration

PLANT INDUSTRY DIVISION

Administrator, Roy Bjornson
(406)444-3730

Fertilizer Registration

DEPARTMENT OF COMMERCE

Director, Keith Colbo
1424 Ninth Ave.
Helena, MT 59620
(406)444-3494

AERONAUTICS DIVISION

Administrator, Michael Ferguson
2630 Airport Road
(406)444-2506

Pesticides, aerial applicator licensing
Air Carriers

BUSINESS REGULATION DIVISION

Administrator, James Kembel
(406)444-3737

Building Codes Bureau

Chief, James Brown
1218 E. Sixth Ave.
(406)444-3933

Building codes

LOCAL GOVERNMENT ASSISTANCE DIVISION

Administrator, Newell Anderson
Cogswell Building, Room C211
(406)444-3757

Hardrock Mining Impact Board
Administrative Officer, Carol Ferguson
(406)444-4478

Hardrock mining

Community Development Bureau
Bureau Chief, Jack Vaughn
(406)444-3757

Subdivisions

ENVIRONMENTAL QUALITY COUNCIL

Executive Director, Deborah Schmidt
Capitol Building, Room 432
Helena, MT 59620
(406)444-3742

Environmental impact statements

DEPARTMENT OF FISH, WILDLIFE AND PARKS

Director, James Flynn
1420 E. Sixth Ave.
Helena, MT 59620
(406)444-2535

CENTRALIZED SERVICES DIVISION

Administrator, David Mott
(406)444-4786

License Bureau
Chief, Jim Herman
(406)444-4558

Fish and game licenses
Special permits and licenses

FISHERIES DIVISION

Administrator, Pat Graham
(406)444-2449

Salmon eggs
Streambed protection
Stream preservation

WILDLIFE DIVISION

Administrator, Arnold Olsen
(406)444-2612

Migratory waterfowl permits
Baits on DFWP lands
Wild bird permits

LAW ENFORCEMENT DIVISION
Administrator, Erv Kent
(406)444-2452

Game for scientific purposes
Ice fishing shelters
Hunting regulations
Snare trapping
Game or fur farms
Roadside zoos
Shooting preserves
Fur dealers
Snowmobiles
Shooting preserve bird tags
Commercial seining

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Director, John Drynan, M.D.
Cogswell Building, Room C108
Helena, MT 59620
(406)444-2544

ENVIRONMENTAL SCIENCES DIVISION
Administrator, Larry Lloyd
Cogswell Building, Room A107
(406)444-3948

Air Quality Bureau
Chief, Jeff Chafee
Cogswell Building, Room A116
(406)444-3454

Burning permits
Air pollution permits
Major facility certificates

Occupational Health Bureau
Acting Chief, Adrian Howe
Cogswell Building, Room A113
(406)444-3671

Occupational emissions
Noise
Radioactivity

Food and Consumer Safety Bureau
Chief, James Peterson
Cogswell Building, Room A104
(406)444-2408

Dairies
Trailer courts, camp grounds

Solid and Hazardous Waste Bureau
Chief, Duane Robertson
Cogswell building, Room B201
(406)444-2821

Roadside junkyards
Solid waste disposal
Motor vehicle wrecking facilities
Hazardous waste disposal

Water Quality Bureau
Chief, Steve Pilcher
Cogswell Building, Room A206
(406)444-2406

Sewer systems
Water pollution permits
Public water supplies
Animal confinement facilities
Major facility certificates
Oil and gas wells-discharge permits
Uranium solution extraction
Hardrock mining-discharge permits

DEPARTMENT OF HIGHWAYS

Director, Gary Wicks
Highway Building
2701 Prospect Ave.
Helena, MT 59620
(406)444-6201

ENGINEERING DIVISION
Administrator, Don Harriott
(406)444-6206

Right-Of-Way Bureau
Chief, Jack Ricker
(406)444-6057

Encroachments-easements
Roadside junkyards

Area Maintenance Bureaus
(see INDEX 2)

Highway advertising permits
Approach permits
Utility permits

DEPARTMENT OF JUSTICE

Attorney General, Mike Greely
Justice Building
215 N. Sanders
Helena, MT 59620
(406)444-2026

LAW ENFORCEMENT SERVICES DIVISION
Administrator, Fritz Behr
303 Roberts, Room 363
(406)444-3874

Fire Marshal Bureau
Chief, Ray Blehm
(406)444-2050

Fire inspection

DEPARTMENT OF LABOR AND INDUSTRY

Commissioner, Pat Hartman
Lockey and Roberts
Helena, MT 59620
(406)444-3555

WORKERS' COMPENSATION DIVISION
Administrator, Robert Robinson
5 S. Last Chance Gulch
(406)444-6500

Safety Bureau
Chief, Ed Gatzemeier
(406)444-6401

Coal mining safety regulations
Opencut mining safety regulations

DEPARTMENT OF LIVESTOCK

Executive Secretary, Les Graham
Scott Hart Building, 3rd Floor
301 Roberts
Helena, MT 59620
(406)444-2023

ANIMAL HEALTH DIVISION
Administrator, Donald Ferlicka
(406)444-2043

Slaughterhouses and meatpacking plants

Milk and Egg Bureau
Chief, Everett Tudor
(406)444-5202

Dairies

BRANDS ENFORCEMENT DIVISION
Administrator, Les Graham
(406)444-2023

Vertebrate pest control
Aerial hunting permits

MONTANA HISTORICAL SOCIETY

Director, Dr. Robert Archibald
225 N. Roberts
Helena, MT 59620
(406)444-2694

STATE HISTORIC PRESERVATION PROGRAM

Preservation Officer, Marcella Sherfy
(406)444-7715

Heritage site preservation

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Director, Larry Fasbender
1520 E. Sixth Ave.
Helena, MT 59620
(406)444-6699

ENERGY DIVISION

Administrator, Van Jamison
(406)444-6697

Conservation and Renewable Energy Bureau
Chief, Louise Moore
(406)444-6697

Geothermal development

Planning and Analysis Bureau
Chief, Alan Davis
(406)444-6791

Facility siting certificates

Facility Siting Bureau
Chief, Wayne Wetzel
(406)444-6697

Facility siting certificates

OIL AND GAS CONSERVATION DIVISION

Administrator, Charles Maio
2535 St. Johns Ave.
Billings, MT 59102
(406)656-0040

Assistant Administrator, Dee Rickman
DNRC Building, Helena
(406)444-6675

Oil and gas development
Geophysical exploration

WATER RESOURCES DIVISION
Administrator, Gary Fritz
(406)444-6601

Lakeshores

Engineering Bureau
Chief, Richard Bondy
(406)444-6646

Dams and reservoirs
Floodplain regulations
Hydroelectric sites

Water Development Bureau
Chief, Caralee Cheney
(406)444-6668

Weather modification

Water Rights Bureau
Chief, Larry Holman
(406)444-6610

Water rights
Water appropriations

CONSERVATION DISTRICTS DIVISION
Administrator, Ray Beck
(406)444-6667

Stream beds
Stream banks
Soil and water conservation

DEPARTMENT OF PUBLIC SERVICE REGULATION
Chair, Clyde Jarvis
2701 Prospect Ave, Building D
Helena, MT 59620
(406)444-6199

UTILITIES DIVISION
Administrator, Dan Elliott
(406)444-6180

Pipelines
Utilities

SECRETARY OF STATE
Verner L. Bertelsen
State Capitol, Room 225
Helena, MT 59620
(406)444-2034

Geophysical exploration

DEPARTMENT OF STATE LANDS

Commissioner, Dennis Hemmer
1625 Eleventh Ave.
Helena, MT 59620
(406)444-2074

CENTRALIZED SERVICES DIVISION

Administrator, Jim Williams

Cropland leases
Grazing leases
Geothermal leases
Mining leases
Hydroelectric sites
Oil and gas leases
Underground storage of natural gas
Oil and gas exploration permits
Uranium and other fissionable materials leases

RECLAMATION DIVISION

Administrator, Gary Amestoy

Coal and uranium mining
Hardrock mining
Opencut mining

FORESTRY DIVISION

Administrator, Gary Brown
2705 Spurgin Rd.
Missoula, MT 59801
(406)728-4300

Cabin sites
Burning permits
Slash disposal
Portable sawmills
Christmas tree cutting
Timber removal
Timber sales

LAND ADMINISTRATION DIVISION

Administrator, Kelly Blake

Natural areas
Prospecting permits on state lands
Mining leases

APPENDIX 2: STATE AGENCY REGIONAL OFFICES

DEPARTMENT OF FISH, WILDLIFE AND PARKS

Billings: 1125 Lake Elmo Dr.
(406)252-4654

Bozeman: 1400 S. 19th
(406)994-4042

Glasgow: RR 1-210
(406)228-9347

Great Falls: P.O. Box 6609
(406)454-3441

Kalispell: 490 N. Meridian
(406)752-5501

Miles City: P.O. Box 430
(406)232-4365

Missoula: 3201 Spurgin Rd.
(406)542-5500

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Air Quality Bureau

Billings: 1500 N. 30th
(406)657-2617

Food and Consumer Safety Bureau

Billings: 1500 N. 30th
(406)657-2619

Water Quality Bureau

Billings: 1500 N. 30th
(406)657-2616

DEPARTMENT OF HIGHWAYS

District and Area Field Offices

Billings: 424 Morey
(406)252-4138

Bozeman: 907 N. Rouse Ave.
(406)586-9562

Butte: P.O. Box 3068
(406)494-3224

Glendive: 503 N. River Ave.
(406)365-5296

Great Falls: P.O. Box 1359
(406)727-4350

Havre: P.O. Box 592
(406)265-6821

Lewistown: P.O. Box 491
(406)538-8731

Kalispell: 85 5th Ave. East N.
(406)755-5717

Miles City: P.O. Box 460
(406)232-1093

Missoula: P.O. Box 7039
(406)549-6491

Wolf Point: Highway 13 W
(406)653-1050

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Water Rights Bureau Field Offices

Billings: 1537 Ave. D, Suite 105
(406)657-2105

Bozeman: 1201 E. Main
(406)586-3136

Glasgow: 110 5th St. S.
(406)228-2561

Havre: 1708 W. 2nd St.
(406)265-5516

Kalispell: 3220 Highway 93 S.
(406)752-2288

Lewistown: 613 N.E. Main
(406)538-7459

Miles City: 5 N. Prairie Ave.
(406)232-6359

Missoula: 1900 Brooks
(406)721-4284

DEPARTMENT OF STATE LANDS

Field Operations Supervisors

Billings: 528 S. Moore Ln.
(406)259-3264

Bozeman: 25 E. Mendenhall
(406)586-5243

Kalispell: 2215 Highway 93 N.
(406)752-7994

Lewistown: 613 N.E. Main
(406)538-7789

Miles City: 321 N. Main
(406)232-2034

Missoula: 1401 27th Ave.
(406)728-4200

APPENDIX 3: LOCAL PERMITTING AUTHORITIES

Local Governing Bodies
(City-Town Council or Board of County Commissioners)
Airport zoning
Building codes
Burning permits
Ferries
Fire inspection
Floodway regulation
Geophysical exploration
Highway excavations
Improvement districts
Lakeshore protection
Liquor licenses
Mains, water and sewer
Mining claims
Oil and gas leases
Overhead lines
Stream preservation
Subdivision plat approval
Timber removal
Utility extensions
Water appropriations
Zoning

Conservation and Grazing District Supervisors

Agricultural activities
Grazing leases
Land use regulations
Forestry activities
Subdivision activities

Sheriff

Fire inspection

District Court

Mining right-of-way
Overhead lines

Local Health Officials

Air pollution permits
Campgrounds
Dairies
Solid waste disposal facilities
Subdivision, sanitary restrictions
Tourist campgrounds
Trailer courts

APPENDIX 4: FEDERAL AGENCIES

FOREST SERVICE
(Contact local forest supervisor or district ranger)

Burning permits
Grazing leases

ARMY CORPS OF ENGINEERS

Missouri River Division
Box 103, Downtown Station
Omaha, Nebraska 68101
(402)221-7299

North Pacific Division
P.O. Box 2870
Portland, Oregon 97208
(503)221-3700

Seattle District
P.O. Box 63755
Seattle, Washington 98124
(206)764-3690

Stream preservation, wetlands
Dams and reservoirs

DEPARTMENT OF THE INTERIOR

Bureau of Mines
Western Field Operations Center
East 360 Third Ave.
Spokane, Washington 99202
(509)456-5350

Montana Liaison Office

Recording of mining claims

Bureau of Land Management
P.O. Box 36800
Billings, Montana 59107
(406)657-6561

Grazing leases

DEPARTMENT OF LABOR

Occupational Safety and Health Administration
19 North 25th St.
Billings, MT 59101

Indoor emissions - occupational noise

ENVIRONMENTAL PROTECTION AGENCY

Montana Office
301 South Park Ave.
Drawer 10096
Helena, Montana 59626
(406)449-5432

Air pollution permits (PSD on tribal lands only)
Water pollution
Pesticides

FEDERAL ENERGY REGULATORY COMMISSION

Regional Office
1120 S.W. 5th Ave.
Suite 1340
Portland, Oregon 97204
(503)294-5844

Hydroelectric sites

INDEX

A

Administrative Procedure Act, 106
Advertising, Outdoor, 35
Aerial Hunting, 45
Aerial Pesticide Applicators, 14
Agriculture
- animal confinement facilities, 11
- conservation districts, 2
- cropland leases, 11
- dairies, 30
- fertilizer registration, 12
- grazing
  - conservation districts, 2
  - districts, 12
  - leases, 13
  - preferences, 12
- meatpacking plants, 30
- pesticide registration, 14
- power lines, relocation, 87
- predator control, 45
- slaughterhouses, 30
- 1080, use of, 14
- timber, removal for repair or development of farm or ranch, 34 (see also **Forests and Forestry**)
- utility lines, relocation, 87
- water
  - appropriations, 94-97
  - discharge of animal waste, 11

Airport Areas, 1
Airport Zoning Act, 1
Air Quality
- burning permits, 32
- dairy licensing, 30
- hazardous wastes, 75
- major facility siting requirements, 26
- mining operations, 50-67
- occupational air pollution, 25
- pollution permits, federal, 21
- pollution permits, state, 19
  - prevention of significant deterioration, 20
  - variances, 21

Animal Confinement Facilities, 11
Approach Permits, Highway, 36
Archeological Excavation (see **Heritage Sites**)

B

Baits, Poison, 41

Birds (see **Hunting, Fishing and Wildlife**)
Buildings and Building Regulations, 17, 18
airport zones, 1
conservation districts, 2
conservation easements, 7
dairies, 30
easements on state lands, 7
floodplains and floodways, 2
highway approach permits, 36
highway encroachments and easements, 37
moving buildings, raising or cutting utility lines, 87
state building code, 17
Burning, Forest Areas, 32

C

Cabin Sites, 33
Campgrounds, 47
Canals, Ditches and Flumes
conservation districts, 2
easements on state lands, 7
highway encroachments and easements, 37
lake area or shore alteration, 5
Carriers
coniferous trees, 31
ferries, 35
hazardous waste, 75
major facility siting, 26
pipelines, 86
Cemeteries, easements on state lands, 7
Clean Air Act, 19 (see also **Air Quality**)
Coal (see **Mines and Mining**)
Commercial Seining, 39
Conservation Districts, 2
Conservation Easements, 7
construction on (see **Buildings and Building Regulation**)
County Weather Modification Authority, 102
Crop Dusters, 14
Cropland Leases, 11
Curb Cuts, 37

D

Dairies, 30
Dams, 100 (see also **Lakes, Rivers, Streams and Wetlands**)
conservation districts, 2
major facility siting, 26
Docks and Wharves, lakeshore alteration, 5
Drilling (see **Oil and Gas**)
Driveways, 36

E

Eagles, possession or transportation of, 41
Easements
conservation, 7

highways, on or across, 37
state lands, 7
utility easements along highways, 87
Energy
coal (see **Mines and Mining**)
geothermal development, 21
hydroelectric generation, 23, 24
natural gas (see **Oil and Gas**)
oil and gas (see **Oil and Gas**)
uranium (see **Mines and Mining**)
utilities (see **Utilities**)
environmental impact statements, 104
Excavations
antiquity sites, 4
heritage sites, 4
highway, 37

F

Facility Siting (see **Major Facility Siting**)
Falconry, 41
Farming (see **Agriculture**)
Federal Power Act, 23, 100
Ferries, 35
Fertilizer Registration, 12
Fire Prevention and Protection
burning in forest areas, 32
slash disposal, 33
timber removal when dead or inferior, 34
Fish and Fishing (see **Hunting, Fishing and Wildlife**)
Floodplains and Floodways, 2
Food Processing and Service
dairies, 30
meatpacking plants, 30
slaughterhouses, 30
Forests and Forestry
burning, 32
cabin sites, 33
coniferous trees, transportation of, 31
conservation districts, 2
fire hazard reduction agreements, 33
removal of dead or inferior timber, 34
sale of timber, 31
sawmills, portable, 33
slash disposal, 33
Fuel
natural gas (see **Oil and Gas**)
oil (see **Oil and Gas**)
timber, dead or inferior, 34
Fur Dealers, 42
Fur Farms, 42

G

Game (see **Hunting, Fishing and Wildlife**)

Garbage Dumps, 73
Geophysical Exploration, 69
Geothermal Development, 21, 22
major facility siting, 26
Grazing (see **Agriculture**)

H

Hardrock Mines (see **Mines and Mining**)
Hazardous Wastes (see **Waste Disposal**)
Heritage Properties, 4
antiquities, 4
excavation and preservation, 4
Highways
advertising, 35
approach permits, 36
driveways, 36
easements, 37
state lands, 7
utility, 87
encroachments, 37
utility easements, 87
Historical Sites (see **Heritage Sites**)
Hunting, Fishing and Wildlife
aerial hunting, 45
bait, poison, 41
breeding of game birds and animals, 42
commercial seining, 39
eagles, 41
falconry, 41
fish eggs, importation, 42
fishing licenses and regulations, 38
fur dealers, 42
fur farms, 42
game farms, 42
generally, 38
guides, 43
hunting licenses and regulations, 38
ice fishing, 39
importation of fish or eggs, 42
lake area or shore alteration, 5
licenses, 38
outfitters and guides, 43
poison bait, 41
possession of wild animals, 44
predator control, 45
rabies carriers, 44
raptors, 41
regulation of hunting, fishing, trapping, 39
roadside zoos and menageries, 44
salmonid fish eggs, importation, 42
scientific purposes, 44
seining, 39
shooting preserves, 40

snare trapping, 45
streamflow alteration, 8
1080, use of, 14
snare trapping, 45
trapping licenses and regulations, 39
water appropriations, 94-98
wild bird permits, 41
zoos and menageries, 44
Hydroelectric Generation, 23-25

I

Ice Fishing, 39
Industrial Camps, 47
Interstate Lands Sales Act, 84

J

Junkyards, 78

L

Lakes, Rivers, Streams and Wetlands
alteration of lake area or shore, 5
alteration of streamflow, 8
dams and reservoirs, 100
ferries, 25
geothermal development, 21-23
hydroelectric generation plants, 23-25
pipelines, 29, 86
shoreline alteration, 5
Landfills, 73
Landowner Notification Act, 50
Land Use Regulations (see also, **Planning; Zoning**)
airport areas, 1
antiquity sites, 4
conservation districts, 2
conservation easements, 7
floodplains and floodways, 2
heritage sites, 4
lakeshores, 5
major facility sites, 26
natural areas, 6
open spaces, 7
streams, beds and banks, 8
subdivisions, 80-85
wetlands, 8
Leases
coal mining on state lands, 64
croplands, 11
geothermal development, 21-23
grazing leases, 13
hydroelectric generation sites, 23-25
metalliferous mineral and gem mining on state lands, 65
natural gas, underground storage of, 72
nonmetalliferous mineral operation on state lands, 66

oil and gas operations
city, county or school district lands, 72
state lands, 70
state lands, 7
subdivided land, 80
Lighting Districts, 89
Livestock (see **Agriculture**)
Logging (see **Forests and Forestry**)

M

Mains (see **Utilities**)
Major Facility Siting Act, 26
Major Facility Siting
generally, 26
geothermal development, 21-23
hazardous waste, 75
nuclear facilities, 29
pipelines, 29, 86
utilities, 86
Manure Registration, 12
Meatpacking Plants, 30
Menageries, 44
Metal Mines (see **Mines and Mining**, hardrock mining)
Milk, dairy licensing, 30
Mines and Mining
coal and uranium
in-situ mining of uranium, 56
location of mine site, 52
operating permit, 53, 59
prospecting permit, 51
safety regulations, 54, 59
solution extraction of uranium, 56
exploration of hardrock mines, 58
gravel operations on state lands, 66
hardrock mining
exploration, 58
large-scale developments, 61
operating permit, 59
safety regulations, 59
in-situ mining of uranium, 56
landowner notification, 50
location of mine site, 52
location of mining claim, 50
major facility siting, 26
metalliferous mineral mining operation on state lands, 65
mine site location, 52
mining claim, recording of, 50
non metalliferous mineral mining operations on state lands, 66
opencut mining, 62
operating permits
hardrock mining, 59
coal and uranium mining, 54
prospecting permits, 51

state lands, on, 63
reclamation plans
coal and uranium mines, 54
hardrock mines, 59
open cut mines, 62
right-of-way establishment, 50
safety regulations, 54, 59
small miner's exemption, 59
state lands, operation on
coal mining, 64
metalliferous minerals and gems, mining of, 65
non-metalliferous minerals, mining of, 66
prospecting, 63
stone operation on state lands, 66
surface owner notification, 50
unpatented claims, recording, 50
water
appropriations, 94-98
discharge of wastewater, 92
Mobile Home Parks, 47
sanitation in, 82
Montana Administrative Procedure Act, 106
Montana Antiquities Act, 4
Montana Clean Air Act, 19 (see also **Air Quality**)
Montana Coal Mining Code, 54
Montana Environmental Policy Act, 104
Montana Hazardous Waste Act, 75 (see also **Waste Regulation**)
Montana Nuclear Regulation Act, 77
Montana Pesticides Act, 14
Motor Vehicle Wrecking Facilities, 77

N

Natural Areas, 6
Natural Gas (see **Oil and Gas**)
Navigable Waters (see **Lakes, Rivers, Streams and Wetlands; Water**)
Noise
airport areas, 1
occupational noise, 25
Nuclear Facility Siting, 29
Nuclear Wastes, 77

O

Occupational Air Contamination, 25
Occuptional Noise, 25
Oil and Gas
city, county or school district lands, operations on, 72
drilling, 68
exploration, 69
geophysical exploration, 69
mains, 86
major facility siting, 26
notices of intention to explore and drill, 68, 69

pipelines, 86
shot holes, plugging, 69
state lands
geophysical exploration on, 70
oil and gas operations on, 70
underground storage of natural gas, 72
storage reservoirs, 68
surface restoration, 68
waste, 68
water quality protection, 68 (see also **Water**)
wells, 68
Open Cut Mining Act, 62 (see also **Mines and Mining**)
Open Space and Natural Areas
coal and uranium prospecting permits on, 51
conservation easements, 7
designation of natural areas, 6
Outdoor Advertising Act, 35
Outfitters and Guides, 43

P

Paleontological Remains (see **Heritage Sites**)
Parking, 36
Pesticides Registration, 14
Pipelines, 29, 86
major facility siting, 26, 88
Planning
airport areas, 1
generally, 17
lake areas or shore alteration, 5
master plan, 17
motor vehicle wrecking facilities, 77
subdivisions, 80
Poison Baits, 41
Predator Control, 45
Preliminary Environmental Reviews, 104
Prospecting Permits (see **Mines and Mining**)
Public Service Commission, 86 (see also, **Utilities**)
Public Water Supply (see **Water**)

R

Rabies Carriers, 44
Radioactive Wastes, 77
Ranching (see **Agriculture**)
Raptors, possession, training or breeding, 41
Recreation
campgrounds and trailer parks, 47
lake area or shore alteration, 5
Recreational Vehicle Parks, sanitation in, 82
Regulated Businesses (see Utilities)

Rivers (see **Lakes, Rivers, Streams and Wetlands**)
Rivers and Harbors Act, 9
Roads (see **Highways**)
Roadside Junkyards, 78

Roadside Zoos and Menageries, 44
Rural Improvement Districts, 88

S

Safety
airport areas, 1
coal mines, 54
floodplains and floodways, 2
hardrock mines, 59
opencut mines, 62
Salmonid Eggs, importation of, 42
Sanitary Landfills, 73
Sanitation in Subdivisions Act, 82
Sawmills, portable, 33
Schools
easements on state lands, 7
oil and gas operations on school district lands, 72
Seining, commercial, 39
Seismography, 69
Sewer Districts, 88
Sewer Systems, 91
subdivisions, in, 82
Shooting Preserves, 40
Slash Disposal, 33
Slaughterhouses, 30
Small Miner's Exemption, 59
Snare Trapping, 45
Soil
conservation districts, 2
mine reclamation plans, 54, 59, 62
streamflow alteration, 8
Solid Waste Management Act, 73 (see also **Waste Disposal**)
Special Improvement Districts, 88
State Lands
antiquities sites on, 4
cabin sites, licenses, 33
cropland leases, 11
easements, 7
exchange of land, 8
generally, 7
geophysical exploration, 70
geothermal development, 22
grazing leases, 12
heritage sites, 4
hydroelectric site leases, 24
leases, 8
mining operations (see **Mines and Mining**)
natural areas, 6
natural gas, underground storage of, 72
oil and gas operations, 70
sales of land, 8
timber sales, 31
Streambed and Land Preservation Act, 8

Streams (see **Lakes, Rivers, Streams and Wetlands**)
Streets (see **Highways**)
Strip and Underground Mine Reclamation Act, 51, 54 (see also, **Mines and Mining**)
Strip and Underground Mine Sting Act, 53 (see also, **Mines and Mining**)
Subdivision and Platting Act, 80
Subdivisions
campgrounds, 47
conservation districts, 2
general requirements, 80
parkland, 81
sale of subdivided land, 83
sanitation, 82
sewage, 91
solid waste disposal, 73
trailer courts, 47
water supply, 90

T

Telephone and Telegraph (see **Utilities**)
1080 use of, 14
Timber (see **Forests and Forestry**)
Tourist Campgrounds, 47
Trailer Courts, 47
sanitation in, 82
Transportation (see also, **Carriers; Highways**)
airports, 1
coniferous trees, 31
ferries, 35
hazardous wastes, 75

U

Underground Storage Reservoirs, natural gas, 72
Uranium (see **Mines and Mining**)
Utilities
districts, 88
easements on state lands, 7
extensions, 86
highway easements and encroachments, 37
hydroelectric generation, 23-25
improvement districts, 88
lines, 87
mains, 86
major facility siting, 26, 88
overhead lines, 87
pipelines, 86
poles and cables, 87
public service commission authority, 86
sewer lines, 86, 91
special improvement districts, 88
water lines, 86

W

Waste Disposal
animal waste, 11
dairies, 30
garbage dumps, 73
hazardous wastes, 75
transporters, 76
variances, 77
junkyards, 78
motor vehicle wrecking facilities, 77
radioactive waste, 77
roadside junkyards, 78
sanitary landfills, 73
solid waste, non-hazardous, 73
subdivisions, 80
variances, 74
Water
(see also, **Lakes, Rivers, Streams and Wetlands; Utilities**)
animal waste, discharge, 11
appropriations,
geothermal development, 21, 22
groundwater, 97-100
surface water, 94
beneficial uses, 94
conservation districts, 2
dams, 100
discharge of pollutants or waste, 29, 92
animal waste, 11
dairies, 30
federal facilities, 94
industrial and commercial facilities, 29, 92
discharge
major facility siting requirements, 26, 88
oil and gas operations, 68
effluents, limitation, 93
federal facilities, discharge of pollutants, 94
ferries, 35
groundwater
appropriation, 97
discharge, 92
hydroelectric generation plants, 23, 24
mining operations (see **Mines and Mining**)
public water supply, 90
campgrounds, 47
subdivisions, 80, 82
trailer courts, 47
reservations, 100
sewer systems, 91
subdivisions, 80, 82
surface water appropriations, 94
weather modifications, 102
wells, 98
appropriation of groundwater, 97
public water supply, 90
Water Pollution Control Act, 94 (see also **Water**)

Water Quality Act, 92 (see also **Water**)
Weather Modification, 102
Wetlands (see **Lakes, Rivers, Streams and Wetlands**)
Wilderness Areas (see **Open Space and Natural Areas**)
Wildlife (see **Hunting, Fishing and Wildlife; Open Space and Natural Areas**)
Work Camps, 47

Z

Baits, Pioson, 41
Birds (see **Hunting, Fishing and Wildlife**)

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